ABRIDGMENT

OF THE

DEBATES OF CONGRESS,

FROM 1789 TO 1856.

FROM GALES AND SEATON'S ANNALS OF CONGRESS; FROM THEIR REGISTER OF DEBATES; AND FROM THE OFFICIAL REPORTED DEBATES, BY JOHN C. RIVES.

BY

THE AUTHOR OF THE THIRTY YEARS' VIEW.

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FIFTEENTH CONGRESS.—FIRST SESSION.

BEGUN AT THE CITY OF WASHINGTON, DECEMBER 1, 1817.

PRESIDENT OF THE UNITED STATES,—JAMES MONROE.

PROCEEDINGS IN THE SENATE.*

MONDAY, December 1, 1817.

The first session of the Fifteenth Congress, conformably to the Constitution of the United States, commenced this day at the city of Washington; and the Senate assembled in their Chamber.

PRESENT.

DAVID L. MORRILL and CLEMENT STORER, from the State of New Hampshire.

JAMES BURRILL, jr., from Rhode Island and Providence Plantations.

ISAAC TICHENOR and JAMES FISK, from Vermont.

DAVID DAGGETT, from Connecticut.

RUFUS KING and NATHAN SANFORD, from New York.

JAMES J. WILSON and MAHLON DICKERSON, from New Jersey.

ABNER LACOCK and JONATHAN ROBERTS, from Pennsylvania.

JAMES BARBOUR and JOHN W. EPPES, from Virginia.

NATHANIEL MACON, from North Carolina.

JOHN GAILLARD and WILLIAM SMITH, from South Carolina.

CHARLES TAIT, from Georgia.

JOHN J. CRITTENDEN, from Kentucky.

JOHN WILLIAMS, from Tennessee.

BENJAMIN RUGGLES, from Ohio.

JAMES NOBLE and WALLER TAYLOR, from Indiana.

JOHN GAILLARD, President *pro tempore*, resumed the Chair.

CLEMENT STORER, appointed a Senator by the Legislature of the State of New Hampshire, to supply the vacancy occasioned by the resignation of Jeremiah Mason; JAMES FISK, appointed a Senator by the Legislature of the State of Vermont, to supply the vacancy occasioned by the resignation of Dudley Chace; JOHN J. CRITTENDEN, appointed a Senator by the Legislature of the State of Kentucky, for the term of six years, commencing on the fourth day of March last; JOHN WILLIAMS, appointed a Senator by the Legislature of the State of Tennessee, for the term of six years, commencing on the fourth day of March last, respectively, produced their credentials, which were read; and the oath prescribed by law was administered to them, and they took their seats in the Senate.

JOHN W. EPPES, appointed a Senator by the Legislature of the State of Virginia, for the term of six years, commencing on the fourth day of March last, stated that he had received his credentials, but had neglected bringing them with him, expecting that the Executive of Virginia would forward a duplicate thereof to the Senate, and which he still supposed would speedily be done: whereupon, the oath prescribed by law was administered to him, and he took his seat in the Senate.

On motion by Mr. MACON, the Secretary was ordered to acquaint the House of Representa-

* LIST OF MEMBERS OF THE SENATE.

New Hampshire.—David L. Morrill, Clement Storer.
Massachusetts.—Harrison G. Otis, Eli P. Ashmun.
Rhode Island.—James Burrill, William Hunter.
Connecticut.—David Daggett, Samuel W. Dana.
Vermont.—Isaac Tichenor, James Fisk.
New York.—Rufus King, Nathan Sanford.
New Jersey.—James J. Wilson, Mahlon Dickerson.
Pennsylvania.—Abner Lacock, Jonathan Roberts.
Delaware.—Outerbridge Horsey, Nicholas Vandyke.
Maryland.—Robert H. Goldsborough, Robert Goodloe Harper.
Virginia.—James Barbour, John W. Eppes.
North Carolina.—Nathaniel Macon, Montfort Stokes.
South Carolina.—John Gaillard, William Smith.
Georgia.—Charles Tait, George M. Troup.
Kentucky.—John J. Crittenden, Isham Talbot.
Tennessee.—John Williams, George W. Campbell.
Ohio.—Benjamin Ruggles, Jeremiah Morrow.
Louisiana.—Elegius Fromentin, Henry Johnson.
Indiana.—James Noble, Walter Taylor.

tives that a quorum of the Senate is assembled, and ready to proceed to business.

On motion by Mr. BARBOUR, a committee was appointed to inquire whether any, and if any, what legislative measures may be necessary, for admitting the State of Mississippi into the Union; and Messrs. BARBOUR, KING, and WILLIAMS, of Tennessee, were appointed the committee.

A message from the House of Representatives informed the Senate that a quorum of the House of Representatives is assembled, and have elected HENRY CLAY, one of the Representatives for the State of Kentucky, their Speaker, and THOMAS DOUGHERTY their Clerk, and are ready to proceed to business.

The Senate then adjourned.

TUESDAY, December 2.

HARRISON GRAY OTIS, from the State of Massachusetts, arrived on the 1st instant, and attended this day.

Mr. TICHENOR reported, from the joint committee, that they had waited on the President of the United States, and that the President of the United States informed the committee that he would make a communication to the two Houses this day, at twelve o'clock.

President's Annual Message.

The following Message was then received from the PRESIDENT OF THE UNITED STATES:

Fellow-citizens of the Senate and of the House of Representatives:

At no period of our political existence had we so much cause to felicitate ourselves at the prosperous and happy condition of our country. The abundant fruits of the earth have filled it with plenty. An extensive and profitable commerce has greatly augmented our revenue. The public credit has attained an extraordinary elevation. Our preparations for defence, in case of future wars, from which, by the experience of all nations, we ought not to expect to be exempted, are advancing, under a well-digested system, with all the despatch which so important a work will admit. Our free Government, founded on the interest and affections of the people, has gained, and is daily gaining, strength. Local jealousies are rapidly yielding to more generous, enlarged, and enlightened views of national policy. For advantages so numerous and highly important, it is our duty to unite in grateful acknowledgments to that Omnipotent Being from whom they are derived, and in unceasing prayer that He will endow us with virtue and strength to maintain and hand them down, in their utmost purity, to our latest posterity.

I have the satisfaction to inform you, that an arrangement which had been commenced by my predecessor, with the British Government, for the reduction of the naval force, by Great Britain and the United States, on the Lakes, has been concluded; by which it is provided, that neither party shall keep in service on Lake Champlain more than one vessel; on Lake Ontario, more than one; and on Lake Erie and the upper lakes, more than two; to be armed, each, with one cannon only; and that all the other armed vessels, of both parties, of which an exact list is interchanged, shall be dismantled. It is also agreed, that the force retained shall be restricted in its duty to the internal purposes of each party; and that the arrangement shall remain in force until six months shall have expired, after notice given by one of the parties to the other of its desire that it should terminate. By this arrangement useless expense on both sides, and what is of still greater importance, the danger of collision between armed vessels in those inland waters, which was great, is prevented. I have the satisfaction also to state, that the Commissioners, under the fourth article of the Treaty of Ghent, to whom it was referred to decide to which party the several islands in the Bay of Passamaquoddy belonged, under the treaty of one thousand seven hundred and eighty-three, have agreed in a report, by which all the islands in the possession of each party before the late war have been decreed to it. The Commissioners, acting under the other articles of the Treaty of Ghent, for the settlement of boundaries, have also been engaged in the discharge of their respective duties, but have not yet completed them. The difference which arose between the two Governments under that treaty, respecting the right of the United States to take and cure fish on the coast of the British provinces, north of our limits, which had been secured by the treaty of one thousand seven hundred and eighty-three, is still in negotiation. The proposition made by this Government to extend to the colonies of Great Britain the principles of the convention of London, by which the commerce between the ports of the United States and British ports in Europe had been placed on a footing of equality, has been declined by the British Government. This subject having been thus amicably discussed between the two Governments, and it appearing that the British Government is unwilling to depart from its present regulations, it remains for Congress to decide whether they will make any other regulations, in consequence thereof, for the protection and improvement of our navigation.

The negotiation with Spain, for spoliations on our commerce, and the settlement of boundaries, remains, essentially, in the state it held, by the communications that were made to Congress by my predecessor. It has been evidently the policy of the Spanish Government to keep the negotiation suspended, and in this the United States have acquiesced, from an amicable disposition towards Spain, and in the expectation that her Government would, from a sense of justice, finally accede to such an arrangement as would be equal between the parties. A disposition has been lately shown by the Spanish Government to move in the negotiation, which has been met by this Government, and should the conciliatory and friendly policy which has invariably guided our councils be reciprocated, a just and satisfactory arrangement may be expected. It is proper, however, to remark, that no proposition has yet been made from which such a result can be presumed.

It was anticipated at an early stage, that the contest between Spain and the colonies would become highly interesting to the United States. It was natural that our citizens should sympathize in events which affected their neighbors. It seemed probable, also, that the prosecution of the conflict along our coast, and in contiguous countries, would occasionally interrupt our commerce, and otherwise affect the

persons and property of our citizens. These anticipations have been realized. Such injuries have been received from persons acting under the authority of both the parties, and for which redress has, in most instances, been withheld. Through every stage of the conflict, the United States have maintained an impartial neutrality, giving aid to neither of the parties in men, money, ships, or munitions of war. They have regarded the contest, not in the light of an ordinary insurrection or rebellion, but as a civil war between parties nearly equal, having, as to neutral powers, equal rights. Our ports have been open to both, and every article, the fruit of our soil, or of the industry of our citizens, which either was permitted to take, has been equally free to the other. Should the colonies establish their independence, it is proper now to state, that this Government neither seeks nor would accept from them any advantage, in commerce or otherwise, which will not be equally open to all other nations. The colonies will, in that event, become independent States, free from any obligation to or connection with us, which it may not then be their interest to form on the basis of a fair reciprocity.

In the summer of the present year, an expedition was set on foot against East Florida, by persons claiming to act under the authority of some of the colonies, who took possession of Amelia Island, at the mouth of the St. Mary's River, near the boundary of the State of Georgia. As this province lies eastward of the Mississippi, and is bounded by the United States and the ocean on every side, and has been a subject of negotiation with the Government of Spain, as an indemnity for losses by spoliation, or in exchange for territory of equal value, westward of the Mississippi, a fact well known to the world, it excited surprise that any countenance should be given to this measure by any of the colonies. As it would be difficult to reconcile it with the friendly relations existing between the United States and the colonies, a doubt was entertained whether it had been authorized by them or any of them. This doubt has gained strength by the circumstances which have unfolded themselves in the prosecution of the enterprise, which have marked it as a mere private, unauthorized adventure. Projected and commenced with an incompetent force, reliance seems to have been placed on what might be drawn, in defiance of our laws, from within our limits; and of late, as their resources have failed, it has assumed a more marked character of unfriendliness to us; the island being made a channel for the illicit introduction of slaves from Africa into the United States, an asylum for fugitive slaves from the neighboring States, and a port for smuggling of every kind.

A similar establishment was made, at an earlier period, by persons of the same description, in the Gulf of Mexico, at a place called Galveston, within the limits of the United States, as we contend, under the cession of Louisiana. The enterprise has been marked, in a more signal manner, by all the objectionable circumstances which characterized the other, and more particularly by the equipment of privateers which have annoyed our commerce, and by smuggling. These establishments, if ever sanctioned by any authority whatever, which is not believed, have abused their trust, and forfeited all claim to consideration. A just regard for the rights and interests of the United States required that they should be suppressed, and orders have been accordingly issued to that effect. The imperious considerations which produced this measure will be explained to the parties whom it may, in any degree, concern.

To obtain correct information on every subject in which the United States are interested; to inspire just sentiments in all persons in authority on either side, of our friendly disposition, so far as it may comport with an impartial neutrality; and to secure proper respect to our commerce in every port, and from every flag, it has been thought proper to send a ship of war, with three distinguished citizens, along the southern coast, with instructions to touch at such ports as they may find most expedient for these purposes. With the existing authorities, with those in the possession of, and exercising the sovereignty, must the communication be held; from them alone can redress for past injuries, committed by persons acting under them, be obtained; by them alone can the commission of the like, in future, be prevented.

Our relations with the other powers of Europe have experienced no essential change since the last session. In our intercourse with each, due attention continues to be paid to the protection of our commerce, and to every other object in which the United States are interested. A strong hope is entertained, that by adhering to the maxims of a just, a candid, and friendly policy, we may long preserve amicable relations with all the powers of Europe, on conditions advantageous and honorable to our country.

With the Barbary States, and the Indian tribes, our pacific relations have been preserved.

In calling your attention to the internal concerns of our country, the view which they exhibit is peculiarly gratifying. The payments which have been made into the Treasury show the very productive state of the public revenue. After satisfying the appropriations made by law for the support of the Civil Government, and of the Military and Naval Establishments, embracing suitable provisions for fortifications and for the gradual increase of the Navy, paying the interest of the public debt, and extinguishing more than eighteen millions of the principal, within the present year, it is estimated that a balance of more than six millions of dollars will remain in the Treasury on the first day of January, applicable to the current service of the ensuing year. The payments into the Treasury during the year one thousand eight hundred and eighteen, on account of imposts and tonnage, resulting principally from duties which have accrued in the present year, may be fairly estimated at twenty millions of dollars; the internal revenues, at two millions five hundred thousand; the public lands, at one million five hundred thousand; bank dividends and incidental receipts, at five hundred thousand; making in the whole twenty-four millions five hundred thousand dollars.

The annual permanent expenditure for the support of the Civil Government, and of the Army and Navy, as now established by law, amounts to eleven millions eight hundred thousand dollars; and for the Sinking Fund, to ten millions; making in the whole twenty-one millions eight hundred thousand dollars; leaving an annual excess of revenue beyond the expenditure of two millions seven hundred thousand dollars, exclusive of the balance estimated to be in the Treasury on the first day of January, one thousand eight hundred and eighteen.

In the present state of the Treasury, the whole of the Louisiana debt may be redeemed in the year one thousand eight hundred and nineteen; after which,

if the public debt continues as it now is, above par, there will be annually about five millions of the Sinking Fund unexpended, until the year one thousand eight hundred and twenty-five, when the loan of one thousand eight hundred and twelve, and the stock created by funding Treasury notes, will be redeemable.

It is also estimated that the Mississippi stock will be discharged during the year one thousand eight hundred and nineteen, from the proceeds of the public lands assigned to that object, after which the receipts from those lands will annually add to the public revenue the sum of one million and a half, making the permanent annual revenue amount to twenty-six millions of dollars; and leaving an annual excess of revenue, after the year one thousand eight hundred and nineteen, beyond the permanent authorized expenditure, of more than four millions of dollars.

By the last returns to the Department of War, the militia force of the several States may be estimated at eight hundred thousand men, infantry, artillery, and cavalry. Great part of this force is armed, and measures are taken to arm the whole. An improvement in the organization and discipline of the militia is one of the great objects which claims the unremitted attention of Congress.

The regular force amounts nearly to the number required by law, and is stationed along the Atlantic and inland frontiers.

Of the naval force it has been necessary to maintain strong squadrons in the Mediterranean and in the Gulf of Mexico.

When we consider the vast extent of territory within the United States; the great amount and value of its productions; the connection of its parts, and other circumstances, on which their prosperity and happiness depend, we cannot fail to entertain a high sense of the advantage to be derived from the facility which may be afforded in the intercourse between them, by means of good roads and canals. Never did a country of such vast extent offer equal inducements to improvements of this kind, nor ever were consequences of such magnitude involved in them. As this subject was acted on by Congress at the last session, and there may be a disposition to revive it at the present, I have brought it into view for the purpose of communicating my sentiments on a very important circumstance connected with it, with that freedom and candor which a regard for the public interest and a proper respect for Congress require. A difference of opinion has existed from the first formation of our constitution to the present time, among our most enlightened and virtuous citizens, respecting the right of Congress to establish such a system of improvement. Taking into view the trust with which I am now honored, it would be improper, after what has passed, that this discussion should be revived, with an uncertainty of my opinion respecting the right. Disregarding early impressions, I have bestowed on the subject all the deliberation which its great importance and a just sense of my duty required, and the result is, a settled conviction in my mind, that Congress do not possess the right. It is not contained in any of the specified powers granted to Congress; nor can I consider it incidental to, or a necessary mean, viewed on the most liberal scale, for carrying into effect any of the powers which are specifically granted. In communicating this result, I cannot resist the obligation which I feel, to suggest to Congress the propriety of recommending to the States the adoption of an amendment to the constitution, which shall give to Congress the right in question. In cases of doubtful construction, especially of such vital interest, it comports with the nature and origin of our institutions, and will contribute much to preserve them, to apply to our constituents for a specific grant of the power. We may confidently rely, that if it appears to their satisfaction that the power is necessary, it will always be granted. In this case I am happy to observe that experience has afforded the most ample proof of its utility, and that the benign spirit of conciliation and harmony, which now manifests itself throughout our Union, promises to such a recommendation the most prompt and favorable result. I think proper to suggest, also, in case this measure is adopted, that it be recommended to the States to include, in the amendment sought, a right in Congress to institute, likewise, seminaries of learning for the all-important purpose of diffusing knowledge among our fellow-citizens throughout the United States.

Our manufactories will require the continued attention of Congress. The capital employed in them is considerable, and the knowledge acquired in the machinery and fabric of all the most useful manufactures is of great value. Their preservation, which depends on due encouragement, is connected with the high interests of the nation.

Although the progress of the public buildings has been as favorable as circumstances have permitted, it is to be regretted that the Capitol is not yet in a state to receive you. There is good cause to presume that the two wings, the only parts as yet commenced, will be prepared for that purpose at the next session. The time seems now to have arrived when this subject may be deemed worthy the attention of Congress, on a scale adequate to national purposes. The completion of the middle building will be necessary to the convenient accommodation of Congress, of the committees, and various offices belonging to it. It is evident that the other public buildings are altogether insufficient for the accommodation of the several Executive Departments, some of whom are much crowded, and even subjected to the necessity of obtaining it in private buildings, at some distance from the head of the department, and with inconvenience to the management of the public business. Most nations have taken an interest and a pride in the improvement and ornament of their Metropolis, and none were more conspicuous in that respect than the ancient Republics. The policy which dictated the establishment of a permanent residence for the National Government, and the spirit in which it was commenced and has been prosecuted, show that such improvement was thought worthy the attention of this nation. Its central position, between the northern and southern extremes of our Union, and its approach to the West, at the head of a great navigable river, which interlocks with the Western waters, proves the wisdom of the councils which established it. Nothing appears to be more reasonable and proper, than that convenient accommodation should be provided, on a well-digested plan, for the heads of the several departments, and of the Attorney-General; and it is believed that the public ground in the city applied to those objects will be found amply sufficient. I submit this subject to the consideration of Congress, that such further provision may be made in it as to them may seem proper.

In contemplating the happy situation of the United

States, our attention is drawn, with peculiar interest, to the surviving officers and soldiers of our Revolutionary Army, who so eminently contributed, by their services, to lay its foundation. Most of those very meritorious citizens have paid the debt of nature and gone to repose. It is believed that among the survivors there are some not provided for by existing laws, who are reduced to indigence, and even to real distress. These men have a claim on the gratitude of their country, and it will do honor to their country to provide for them. The lapse of a few years more, and the opportunity will be forever lost; indeed, so long already has been the interval, that the number to be benefited by any provision which may be made will not be great.

It appearing in a satisfactory manner that the revenue arising from imposts and tonnage, and from the sale of the public lands, will be fully adequate to the support of the Civil Government, of the present Military and Naval Establishment, including the annual augmentation of the latter to the extent provided for, to the payment of the interest of the public debt, and to the extinguishment of it at the times authorized, without the aid of the internal taxes, I consider it my duty to recommend to Congress their repeal. To impose taxes, when the public exigencies require them, is an obligation of the most sacred character, especially with a free people. The faithful fulfilment of it is among the highest proofs of their virtue and capacity for self-government. To dispense with taxes, when it may be done with perfect safety, is equally the duty of their representatives. In this instance we have the satisfaction to know that they were imposed when the demand was imperious, and have been sustained with exemplary fidelity. I have to add, that, however gratifying it may be to me, regarding the prosperous and happy condition of our country, to recommend the repeal of these taxes at this time, I shall nevertheless be attentive to events, and, should any future emergency occur, be not less prompt to suggest such measures and burdens as may then be requisite and proper.

JAMES MONROE.

The Message was read, and two thousand copies thereof ordered to be printed for the use of the Senate.

The Senate then adjourned.

WEDNESDAY, December 3.

ROBERT H. GOLDSBOROUGH, from the State of Maryland, arrived on the 2d instant, and attended this day.

THURSDAY, December 4.

GEORGE W. CAMPBELL, from the State of Tennessee, arrived the 3d, and attended this day.

FRIDAY, December 5.

OUTERBRIDGE HORSEY, from the State of Delaware, arrived the 4th, and attended this day.

MONDAY, December 8.

MONTFORT STOKES, from the State of North Carolina, arrived on the 5th instant, and attended this day.

The PRESIDENT communicated the credentials of JOHN W. EPPES, appointed a Senator by the Legislature of the State of Virginia, for the term of six years, commencing on the 4th day of March last; which were read, and laid on file.

TUESDAY, December 9.

The Senate proceeded to the appointment of a Chaplain on their part, and on the ballots having been counted, it appeared that the Reverend WILLIAM HAWLEY had a majority, and was elected.

WEDNESDAY, December 10.

ELI P. ASHMUN, from the State of Massachusetts, and GEORGE M. TROUP, from the State of Georgia, severally arrived on the 9th, and attended this day.

A message from the House of Representatives informed the Senate that they have appointed the Reverend BURGESS ALLISON, Chaplain on their part.

THURSDAY, December 11.

JEREMIAH MORROW, from the State of Ohio, arrived on the 10th instant, and attended this day.

WALTER LEAKE and THOMAS H. WILLIAMS, respectively, appointed Senators by the Legislature of the State of Mississippi, produced their credentials, were qualified, and took their seats in the Senate.

TUESDAY, December 16.

ISHAM TALBOT, from the State of Kentucky, arrived on the 15th instant, and attended this day.

Specific and ad valorem Duties—Frauds in the Valuation and Appraisement.

The Senate resumed the consideration of the motion of Mr. SANFORD, of the 8th instant, directing the Committee on Finance to make inquiry relative to the collection of ad valorem duties on importations.

Mr. SANFORD rose and addressed the Chair as follows:

Mr. President: According to the laws now in force, the duties on merchandise imported are of two classes: those which are usually denominated specific; and those which are imposed on the value. The specific duty is charged upon the article, according to some denomination, or quantity; and is determined by the number, weight, or measure of the article; as cigars, by the thousand, teas and sugars, by the pound; wines and spirits, by the gallon, or salt, by the bushel. The duty on the value is a certain proportion of the value; as ten or twenty per centum. The ad valorem duties are calculated, not upon any value which the merchandise may bear, but upon its actual cost in the foreign country from which it came, with an addition of twenty per centum to the cost, if imported from places beyond the Cape of Good

Hope, and ten per centum if imported from any other place.

The foreign cost of merchandise is, therefore, the basis of the ad valorem duties; and that cost must be ascertained, in order to ascertain the duties. This principle having been adopted, the provisions of the existing system for the collection of these duties were devised, in order to carry it into effect.

Where the duty is specific, the quantity of goods is ascertained by a public officer, by actual enumeration; weighing, gauging, or measuring, before the goods are delivered to the owner or consignee. Where the duty is on the value, the foreign cost is determined, for the purpose of charging the duty upon it in ordinary cases, by the owner of the goods, or by his consignee, or agent representing him. This is done by an entry of the goods at the custom-house, by the owner, consignee, or agent, who at the same time produces the invoice and bill of lading attending the importation. The entry and the invoice state the prices or cost of the goods, and the person making the entry swears that they are true. When this has been done, the goods are, in ordinary cases, without any farther investigation, concerning their value or cost, delivered to the owner or his agent; and the foreign cost, thus obtained, is the basis upon which the duties are computed.

From the slightest view it is apparent that this method of determining the cost of goods subject to duty on the value, is exceedingly liable to evasion, by untrue statements of the foreign cost upon which the duty is charged. The cost is determined, in most cases, merely by the person who is to pay the duty. The party required to pay the duty; the party whose profit or loss must always depend wholly, or in part, upon the amount of duty charged and paid on the goods; the party interested to reduce the duty as much as possible, is allowed to make his own statement of the cost: and this cost, so stated, is, in most cases, the sum upon which the duties are calculated and paid. Of all temptations to undervalue merchandise, it does not seem possible to devise one more direct and dangerous than to give to the party who is to state the value all the benefit of an undervaluation.

The provision that, when the collector shall suspect that the merchandise is not invoiced at the price usual at the place of exportation, he may require an appraisement, would also seem to promise a security against the fraud in question. This provision, though useful in practice, to some extent, is also believed to fall very far short of an adequate remedy. It is sufficient to prevent or correct the fraud of false invoices and entries, for many reasons.

Upon the whole of this part of the subject, it is conceived, that the power of the collector to require an appraisement, though it may operate, in some degree, to prevent great and flagrant undervaluations, is a very partial and ineffectual restraint upon the smaller undervaluations of five, ten, fifteen, twenty, twenty-five, thirty, forty, and fifty per centum less than the just value, or cost, of the goods. And there is no doubt that the frauds of this kind, from which the revenue suffers most, are false valuations of the latter class; in which the cost expressed in the invoice is less than the real cost by ten, fifteen, twenty, twenty-five, thirty, or forty per centum. It is in these cases that an actual appraisement seldom takes place. When, in these cases, an appraisement does take place, little or nothing is gained by it; and sometimes the value is reduced by the appraisement below the cost stated in the invoice.

The general result of these facts and views is as follows:

1. An invoice of the foreign cost is no security to the revenue.

2. The foreign cost is determined by the oath of the person who makes the entry, in all cases, excepting those in which there is an appraisement.

3. Where there is an appraisement, that proceeding is subject to abuses, greatly injurious to the revenue; which have been stated.

A very great part, perhaps about one-half, of all the articles subjected to duty on the value, which we import, are manufactures of wool and cotton. In these articles, in which the efforts of art and industry make great and very various additions to the value of the raw material, the fraud of false statements of the foreign cost is facilitated by the difference of fabrics and the variety of values. This fraud is accordingly practised in these articles to a great extent.

It is more particularly since the termination of the late war with Great Britain, that the practice of sending goods to the United States to be sold here, on account of the foreign owner, has been carried to a very great extent. The consignment is made to a person here, who, by whatever name he may be called, is, in truth and effect, a mere agent of the owner of the goods. A suitable person for this agency is sent or selected, who makes the entry, pays the duties, and disposes of the goods for the benefit of his principal. This is the history of many great importations which have been made within the last three years, and which have indeed paid duties to the Treasury, but have paid much less than they should have done. Immense quantities of goods, subject to ad valorem duties, are sent to this country by foreigners, to be entered at the custom-house and pay duties, for account of foreigners, and finally to be sold here, in the first instance, on account of foreigners. The course of proceeding is well understood. The consignee or agent is not supposed to commit his conscience or his character in producing the invoice and making the entry. The principal has only to take care not to grasp too much. If he will content himself with any deduction from the true value of the goods which is not palpably excessive, his invoice, in all probability, passes without objection. If an appraisement is required, the

value stated in the invoice is little, or not at all, increased. In either case the foreign owner, who is beyond the reach of our laws, and who has no other object but obtain the most money for his goods, attains his object, and makes a very important saving in the duties. Where the ad valorem duties are considerable, as ours now are, varying from seven and a half to thirty per centum upon the foreign cost; where, upon the greatest part of the articles, the duties are twenty and twenty-five per centum; and where a considerable part of these duties may be saved by a course of proceeding well understood, and free from legal perils; a course of proceeding which is not only practised, but, under the present system, is easily practicable, it is not wonderful that the course should be pursued which will secure the advantage.

It is impossible to ascertain with exactness the extent to which the revenue suffers by false invoices and appraisements of goods subject to *ad valorem* duties. The records of the Treasury and of the custom-houses would show the difference between the invoices and the appraisements required by the collectors, where there are invoices, and appraisements have been required; but they would show nothing more. This difference would indicate a very inconsiderable part of the loss of the revenue. The difference between the real value or *bona fide* foreign cost, and the sum upon which the duties are actually charged and received, is the great and important difference from which the loss to the revenue results. Of this difference nothing appears at the Treasury or at the custom-houses. If it extended to the subduction of one-half, or any other proportion of the *ad valorem* duties, still every thing would be fair upon paper. The records of the Treasury would show the entries and appraisements upon which the duties had been paid; but they would show nothing else to establish the real and *bona fide* value or cost upon which the duties should have been paid.

But, without including any part of that portion of the ad valorem duties which is lost by frauds, it may justly be assumed, that the net amount of ad valorem duties is now higher, in proportion to the net amount of specific duties, than the gross amount of ad valorem duties is to the gross amount of specific duties, according to former experience, in this respect. Making some little allowance, on this account, in favor of the net ad valorem duties, and proceeding upon the facts and principles already stated, we are led to the conclusion that, of the total net revenue now received from merchandise, about two-thirds arise from the ad valorem duties, and about one-third arises from the specific duties.

Though it is not possible to ascertain, with exactness, the extent of the loss to the revenue in the ad valorem duties, arising from appraisements and false invoices, yet some probable estimate of the amount may be made. I have endeavored to form such an estimate. The amount of the loss I have heard estimated by very intelligent men, at one-sixth, and at one-fifteenth part of the total amount of ad valorem duties which should have been received; and at all rates, between a sixth and a fifteenth part. Taking all the information which I have been able to obtain, and the estimates and opinions of well-informed men, in whose knowledge and judgment I have great confidence, as the basis of my own opinion, I cannot estimate the loss to the revenue, arising from these causes, at less than ten per centum. By this I mean that, taking all the valuations upon which all the ad valorem duties are computed, as well those which are fair and just, as those which are fraudulent, and below the true value in various degrees, including also all the appraisements, and speaking of the years 1815, 1816, and 1817, the aggregate amount of all the entries and appraisements, has been less than it should have been, by at least a tenth part of the true cost or value. Thus, if the total amount of merchandise subject to ad valorem duties imported in a given period, is of the true value or cost of ten millions, the numerous undervaluations which take place in particular instances, reduce the total amount of the whole to nine millions; and thus a tenth part of the duties which should be paid is lost. I certainly do not profess to be accurate in a case where accuracy is unattainable. I can only say, that I have sought information from every source accessible to me; I have stated the facts as they appear to be from all the information which I have been able to collect: and I am obliged to conclude, that at least a tenth part of the ad valorem duties is lost by these frauds.

Estimating, then, that the loss in the ad valorem duties, arising from false statements of the foreign cost and appraisement, amounts to ten per centum, and taking the ad valorem duties for the years 1815, 1816, and 1817, at fifty-two millions, it follows that the loss to the revenue from these causes, during these three years, has exceeded five millions of dollars. The result will of course vary, according to the principles assumed.

It is true that the present mode of determining the value of goods subject to duty ad valorem, has prevailed from the commencement of the present Government to this time. When the present system of collection was first established, the ad valorem duties were low, and the temptation to fraud was comparatively small. Many successive alterations were made in the rates of duty, by which, in most cases, the duties were advanced; but still, our duties, before the late war with Great Britain, were moderate, compared either with those which have since been imposed, or with the duties of other countries. It is probable, that for many years after the commencement of the duties and the system of collection, in 1789, the fraud of false invoices was not often practised; but it is believed that this species of fraud had, before the late war, gradually gained much ground, as the duties

were gradually increased, and the methods of accomplishing the object, with impunity, became better understood.

By the act of the first of July, 1812, the duties then existing were doubled, and double duties were to continue for one year after the termination of the war. These duties were continued by a subsequent act, until the 30th of June, 1816, when they ceased, and the present duties took their place.

During all these periods, and notwithstanding the augmentations in the rates, the system for the collection of the duties has remained, in substance, the same.

Consulting experience, the sure test of the past, and the safe monitor for the future, we learn, that, in proportion as the duties are increased, the collection is endangered; and in proportion as the duties are increased the Government must diminish its reliance upon the oaths of parties interested, as securities against fraud. It is therefore, perhaps, not surprising, that the present system should have been found tolerably successful, in the collection of the low and earlier rates of duty; and that the same system should now be, in some respects, no longer adequate to the collection of duties so considerable as those which now are, and for some time have been, in force.

But without attempting to discuss, or even to state, the various projects of reformation, which might be suggested, I shall briefly submit a few ideas upon this subject.

If the evasions and abuses which now occur result, as is believed, from the present system of collection, the remedy must be found in some alteration of the system itself.

A considerable part, perhaps one-fourth or one-fifth in amount of the articles now imported, and now subject to ad valorem duties, may, with entire convenience, be subjected to specific duties. [Mr. SANFORD here went into a statement of the articles to which he alluded, specifying those which he conceived might be very conveniently charged with a duty upon the number, weight, or measure, instead of the value]

The advantages of specific duties over those imposed on the value, in point of security to the revenue, and in their fair and equal operation, are well known. The plan of specific duties is free from those inequalities and uncertainties which must always, in some degree, attend valuations. Such is the excellence of this mode of charging duties, that though our present specific duties, like those ad valorem, are high, compared with the earlier rates, and though the specific duties are in general much higher than those ad valorem in reference to the intrinsic values of the different subjects on which they are respectively imposed, yet it is believed that the specific duties are collected with greater punctuality and certainty, and without any considerable loss to the revenue. This fact likewise shows that the present system of collecting the specific duties is excellent, since it is found to be so by experience; and it also affords a very satisfactory proof that the losses now sustained by the revenue in the ad valorem duties, do not result from any want of vigilance or fidelity on the part of the officers of the customs who collect both the ad valorem and the specific duties.

I am aware that the bulk and weight of many of the articles subject to specific duty afford a very important security to the revenue. But if these articles were subject to ad valorem instead of specific rates, it cannot be doubted, that the same evasions and frauds would take place in respect to them which now occur in all the articles now placed in an ad valorem class.

Still the articles, which will probably remain charged with duty on the value, will be very numerous, and of great amount in the aggregate of our imports: and a proper system for the collection of duties imposed on the value will always be necessary.

The provisions of forfeiture and appraisement, when applied to the real value of the goods, after they reach our own shores, would probably operate with an efficacy which is scarcely felt, when the question in controversy is the foreign cost of the goods.

Or, instead of the provisions of forfeiture and appraisement, the British system may be adopted. According to that system, the importer enters his goods at any value which he chooses to affix to them. If the officers of the customs think, upon examination, that the goods are undervalued by the importer, they take the goods on account of the Government, and forthwith pay to the importer, from the money in their hands arising from the customs, the sum at which he has valued them, with an addition of ten per centum to his valuation, and the duties paid on the importation. The goods are then publicly sold on account of the Government. If the goods produce more than the sum paid to the importer by the officers of the customs, a moiety of the excess is given to those officers as a reward for their vigilance and fidelity. Thus, the interest of the importer, and the interest of the officers of the customs, are constantly arrayed against each other. It is the interest of the importer to enter his merchandise at a just value; for he is constantly exposed to the hazard of receiving for it no more than the amount of his own valuation, with the specified additions. Thus, the steady and active principle of personal interest, is constantly in exercise on both sides, and is at once the inducement to the importer to enter his merchandise at its fair value, and the inducement to the public officers to wrest it from the importer when it is undervalued by him. Perhaps no scheme of human policy has yet been devised for the purpose of securing fair valuations as the basis of duties, which tends so necessarily to that object in practice, as this plan which is now established and pursued in Great Britain. This system is found in the statutes of the 27 George III., chapter 13, section 17; and the 54 George III., chapter 121, section 1. It may also be seen in

Pope's custom and excise laws, pages 223, 224, and 225.

When Mr. SANFORD concluded, the resolution was agreed to.

FRIDAY, December 19.

NICHOLAS VANDYKE, from the State of Delaware, arrived the 18th instant, and attended this day.

MONDAY, December 22.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office, and for designing the western boundary line of the Virginia military tract; and the bill was read, and passed to the second reading.

TUESDAY, December 23.

Salt Duty and Fishing Bounties and Allowances.

Mr. SMITH submitted the following motion for consideration:

Resolved, That the Secretary of the Treasury be directed to lay before the Senate a statement of the amount of duties on imported salt, during the years 1815, 1816, and 1817, as far as the returns to the Treasury will permit. Also, a statement, for the same years, of the amount of the allowances and drawbacks paid to vessels employed in the fisheries, and on pickled fish exported.

MONDAY, December 29.

Ghent Treaty—Restoration of Deported Slaves.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with a resolution of the Senate of the 16th of this month, requesting information touching the execution of so much of the first article of the Treaty of Ghent, as relates to the restitution of slaves, which has not heretofore been communicated, I now transmit a report of the Secretary of State on that subject. JAMES MONROE.

DEPARTMENT OF STATE,
December 24, 1817.

The Secretary of State, to whom has been referred the resolution of the Senate of the 16th instant, requesting information touching the execution of so much of the first article of the Treaty of Ghent as relates to the restitution of slaves, which has not heretofore been communicated, has the honor to report to the President, that no answer has been received from the British Government to the proposal made by order of the late President, on the 17th of September, 1816, that the question upon the different construction given by the respective Governments to that article, should be referred to the decision of some friendly sovereign; that the late Minister of the United States in England, before his departure from London, renewed the request for an answer, and that the present Minister at the same Court has been instructed to invite again the attention of the British Government to the subject. All which is respectfully submitted.

JOHN Q. ADAMS.

TUESDAY December 30.

The PRESIDENT communicated a report of the Secretary of the Treasury, showing the amount of duty which accrued on salt imported during the years 1815 and 1816, and from the 1st January to the 30th June, 1817, together with the amount paid for bounty on pickled fish exported, and for allowance to vessels employed in the fisheries during the same period, made in obedience to a resolution of the Senate of the 24th instant; and the report was read. Whereupon, Mr. SMITH submitted the following motion for consideration:

Resolved, That "a statement from the Treasury Department, showing the amount of duty which accrued on salt imported during the years 1815 and 1816, and from the 1st of January to the 30th of June, 1817, together with the amount paid for bounty on pickled fish exported, and for allowances to vessels employed in the fisheries during the same period," be referred to the Committee on Finance, with instructions to inquire into the expediency of repealing the law laying that duty.

FRIDAY, January 2, 1818.

African Slave Trade.

The Senate resumed the consideration of the motion of the 31st ultimo, for instructing the committee to whom was referred the petition of the committee of the yearly meeting of the Society of Friends, at Baltimore, on the subject of the African slave trade; and the resolution being read—

Mr. TROUP rose to object to the last clause of the resolution, which contemplated a concert with foreign nations. He thought this a most extraordinary proposition, and asserted that, according to his apprehension, no measure could be adopted more replete with danger to the welfare, to the very existence of this country, than a formal coalition, for any purposes, with any foreign nation whatever. It was a policy, a resort to which ought always to be resisted, and he hoped would be resisted with a firmness not to be overcome. The object of the first part of the proposition, for making our laws against the slave trade more perfect and more effectual, Mr. T. approved, and was willing to co-operate in it. He was ready to go as far as any one, in enforcing, within our own jurisdiction, the abolition of the African slave trade. Within our land line, or water line, even on the high seas, he was willing to enforce our own laws on the subject; but to direct the President to enter into any compact or concert for this subject with any foreign nation or individuals, was a step he would never consent to. He could not separate from foreign alliances the idea of foreign politics and foreign wars; and the proposed measure he should view as the commencement of a system of foreign connections tending to foreign alliances, to which Mr. T. expressed great repugnance. Unless, therefore, the propositions embraced by the resolution were separated, he should be obliged to vote against it.

Mr. BURRILL was pleased, he said, to find that Mr. TROUP had no objection to the main object the resolution had in view, of putting an entire stop to the African slave trade—on this point, he believed, there was no diversity of opinion throughout the country. Mr. B. regretted, however, that such a view had been taken of the concert with other nations proposed to effect the object; because it was only by such concert and co-operation that the slave trade could be abolished. Mr. B. entirely agreed to the impolicy of foreign alliances; and if the general objection to them applied to the proposition he had submitted, he admitted it would be a sound and substantial one; but he could not view the proposed concert in this light, nor could he conceive that any such disastrous consequences would follow it as had been anticipated by the gentleman from Georgia; that apprehension, he thought, was altogether groundless. Nor was the principle of the proposed concert, Mr. B. said, a novelty in this country. By referring to the Treaty of Ghent, it would be found that our Ministers had either made or received overtures on this very subject, and a provision was in consequence inserted in the Treaty. The concert had been considered as indispensable to bring about the entire abolition of the slave trade; and, Mr. B. said, it had been found impossible to put an entire stop to it without a co-operation among the nations prohibiting it; for, no matter how many nations prohibit the trade, if one or two are allowed to carry it on, the evil will still exist.

Mr. KING, in the outset of his remarks, adverted to the delicacy of this question; and said that if, in approaching it, he could discover any danger of the present proposition's leading to that kind of connection which was apprehended by Mr. TROUP, no one would more earnestly deprecate it than himself. But, he said, it was the boast of this nation that it had the reputation of having been the first to begin the abolition of the African slave trade; the constitutional provision having reference to this subject, certainly looked forward to a time when this country would be ready to use its best endeavors to put down this iniquitous traffic; and, he might add, there was no provision in the constitution which had been looked to with more general approbation than that one. The example of this country had excited the emulation of other nations, and all of them having any connection with this trade, except two, had come into the measures for its abolition. Those two had taken time for further consideration, and so long as their decision was suspended, the regulations of other nations would be inefficient; an entire abolition of the traffic in slaves would never be effected until all united to suppress it. It seems to me, said Mr. K., that we are bound by our own principles, and the promise we have held out, to go a little further if we can, to give effect to what we have undertaken. It was not important, he thought, in doing so, whether the necessary measures commenced with us, or were entered into at the invitation of others. So long, however, he said, as Spain or Portugal permitted this trade, and so long as any of our own people, to their disgrace, continue to pursue it under those flags, it was necessary to the honor and the interest of this country to concur in any proper measures for its suppression. He could not perceive, he said, how such a measure as this motion looked to, could lead to any such entangling connection as had been apprehended. What was proposed was an honest and moral concert to put an end to a traffic which is an abomination on the earth. He had no idea of its authorizing the slightest interference with the internal affairs of other nations, or of allowing them to interfere in ours; it could, in his opinion, only redound still more to the honor of our country. An arrangement of the nature suggested, he thought, might be entered into without any great inconvenience, and without any encouragement to that kind of connection of interests which had been very justly deprecated; and it was, he said, if practicable, a measure which was demanded by a regard for the morals of the country, which our religion itself called for. Nor did he think, Mr. K. said, that it was a sound objection, though there was some force in it, that the proposition originated in this branch of the Government, and not with the Executive. Any branch of the Government, he thought, might express an opinion on any national question; the construction of legislative powers was not so strict as to forbid it; in proof of which, he adverted to the practice in England, whence, Mr. K. said, we took many of our political ideas, where the Parliament often expressed its opinion on subjects of public interest.

Mr. CAMPBELL, without being prepared for a discussion of the subject, said he could not at present see the propriety of adopting a resolution from which no good could result; for we, as legislators, said he, cannot enter into any contract with foreign nations. The Executive only, he said, was the proper branch of the Government to form such an arrangement, and if it had been necessary, he presumed the Executive would have done so; but it would be useless, and therefore improper, for the Senate to act on this subject, because they could not act with effect. It had been remarked, however, that the expression of an opinion by the Senate, might be useful, and that this course was a common practice with the British Parliament. It was common, he knew, for Parliament to address humble petitions to the King that he would cause certain measures to be executed; but between that practice and ours there was no analogy. When this Congress acted, Mr. C. said, they acted effectually, and did not and ought not ever to undertake what they have not power to carry into effect. There was, perhaps, but a single instance of a departure from this practice in the Senate, when, on one occasion, they recommended to the Executive

to send a Minister to a foreign Government. The measure he always disapproved, and he was, on principle, averse to originating any proposition in the Senate, which their constitutional powers did not enable them to consummate. Besides this, Mr. C. declared his unwillingness to enter into any compact whatever with any foreign power to regulate our own conduct, or to carry our laws into effect. Two nations had thought proper still to permit the trade alluded to. What compact, said Mr. C., are we to form with others, to induce these nations to forbid it? Are we to require Spain and Portugal to give up this trade? Are we to unite with France and England to urge them to give it up? And, should they yet refuse, are we to attempt to force them by arms to do so? Are we, he asked, prepared to risk a war for this object? He confessed he could not see to what other result the proposition tended.

Mr. KING rose to enter his dissent to the construction given by Mr. TROUP, to the article of the Treaty of Ghent which had been quoted. Surely, he said, it would be much more offensive to admit that we would enter into a stipulation with a foreign Government to carry our own statutes into execution within our own territory, where our power is complete, than that we should engage in a concert to suppress a particular trade on the high seas. He would enter into no such stipulation with any power on earth, even if it had been deemed necessary; but in this case it was not. He thought the true intention of the article was, that the parties would use their joint endeavors to put an end to the traffic. [Mr. K. then proceeded to remark on the circumstances of the case, which he presumed Mr. CAMPBELL had referred to, to which the Senate had volunteered its opinion on a certain subject to the Executive; but it afterwards appeared, on explanation, that Mr. K. and Mr. C. had not referred to the same case. Lest, however, injustice should be done to Mr. K.'s views of that subject, they are omitted.]

Mr. CAMPBELL, in conclusion, observed, respecting the stipulation of the Treaty of Ghent, that he did not think the provision was intended to oblige either party to carry its own statutes into execution. He presumed it was introduced merely because the subject was at that time fresh in Great Britain, and that country felt anxious to have it introduced into the treaty, to give to that instrument some popularity. There was nothing additional to be done in pursuance of the provision, and he viewed it simply as an expression of the pre-existing disposition of the parties to put down the trade entirely.

A motion having been made by Mr. CAMPBELL to postpone the resolution for further consideration, it was postponed to Monday without objection.

The Senate adjourned to Monday morning.

MONDAY, January 5.

WILLIAM HUNTER, from the State of Rhode Island and Providence Plantations, arrived the 2d instant, and attended this day.

WEDNESDAY, January 7.

ROBERT H. GOLDSBOROUGH, from the State of Maryland, arrived the 6th instant, and resumed his seat in the Senate this day.

Increase of the Navy.

Mr. TAIT submitted the following motion for consideration:

Resolved, That the President of the United States be requested to cause to be laid before the Senate the proceedings which may have been had under the act, entitled "An act for the gradual increase of the Navy of the United States;" specifying the number of ships put on the stocks, and of what class, and the quantity and kind of materials procured for ship-building. And also, the sums of money which may have been paid out of the fund created by said act, and for what objects; and likewise the contracts which may have been entered into, in execution of the act aforesaid, on which moneys may not yet have been advanced.

FRIDAY, January 9.

ELEGIUS FROMENTIN, from the State of Louisiania, arrived the 8th instant, and attended this day.

MONDAY, January 12.

The African Slave Trade.

The following resolution, offered some days ago by Mr. BURRILL, was taken up:

"*Resolved*, That the committee, to whom was referred the petition of the committee of the yearly meeting of the Society of Friends at Baltimore, be instructed to inquire into the expediency of so amending the laws of the United States on the subject of the African slave trade, as more effectually to prevent said trade from being carried on by citizens of the United States, under foreign flags; and also into the expediency of the United States taking measures, in concert with other nations, for the entire abolition of said trade."

Mr. BURRILL said, that, at the time he had the honor of moving the resolution, he had not anticipated any objection to it; but, from the debate on the subject on a former day, it appeared that some honorable gentlemen thought it unnecessary to make the inquiry at all, and that any concert with foreign nations, to attain the end proposed, was highly improper and dangerous. The question before the Senate was not upon the adoption of any specified or prescribed line of conduct, for the purpose of putting the finishing hand to the great work of the abolition of the slave trade; it was merely whether it should be referred to a committee to inquire into the expediency of taking measures, in concert with other nations, for this great and benevolent purpose. The committee may inquire, and be of opinion that it is inexpedient to adopt any measures whatever, or at least that it is not proper to take measures in concert with other Governments. If the

Senate should refuse an inquiry into the propriety of this course, they might be subjected to the imputation of disregarding the implied obligations of the Treaty of Ghent, by the tenth article of which it is recited, that both the parties are desirous of continuing their efforts to promote the entire abolition of the slave trade, and agree that both shall use their best endeavors to accomplish so desirable an object. If the Senate should refuse the inquiry, it might give rise to unjust surmises and suspicions as to the sincerity of the Government in passing laws for this purpose, and in entering into the stipulations of the Treaty of Ghent. The United States cannot justly be charged with having acted in bad faith, either in making or performing treaties; and, as the United States have the honor of having led the way in the glorious cause of abolishing the slave trade, there can be no doubt that, in making this stipulation at Ghent, our Envoys acted with sincerity, and he hoped were entitled to the merit of having proposed the article. This article, as well as the rest of that treaty, met universal approbation. Ought we, then, to refuse to refer it to a committee, to inquire whether further measures are not necessary, or at least expedient? If any honorable gentleman had moved to go into a Committee of the Whole on this question, would it have been refused? What danger or inconvenience, then, could arise from referring the subject for investigation? This committee, if convinced that further measures are necessary, would report those measures to the House; and, should they recommend a concert with foreign nations for this purpose, the subject then, having some length and breadth, and dimensions, could be examined and considered. But this could not so well be done now, because there was no specific proposition before the House. There was no such danger to be apprehended as some gentlemen imagined, from the generality of the terms of the proposition now under debate. This is the common and ordinary course in commencing the consideration of any subject in the Senate, and the Senate should be cautious not to give ground for the disgraceful suspicion that they are not sincere and hearty in this cause of suffering humanity. Every gentleman in this House wishes for the entire abolition of this abominable traffic, and this is the general voice of the country. The gentlemen here representing the slaveholding States, are as decided as any others on this point, and one of those States (Virginia) was entitled, he believed, to the honor of having been the first State to prohibit it. It was better, as the subject had some connection with others which were of a peculiarly delicate nature, to refer it to a deliberate inquiry in a small committee, than to make it a topic of debate under some general proposition, in which way considerations which did not fairly belong to the subject would insensibly mingle with it.

Mr. BARBOUR said, that, while he was decidedly in favor of the main object of the resolution, that of revising the laws, and remedying every defect for the prevention of the wicked trade in question, there was a part of the resolution of which he did not approve, and, if retained, he should vote against it. And hence, lest his views might be misunderstood, he felt himself compelled to intrude on the attention of the Senate, while he briefly disclosed his reasons. Before he did this, however, he would make a few general remarks. He felt himself obliged to the gentleman from Rhode Island, for doing justice to Virginia, in admitting she had been the first to protest against this trade. But it was no more than an act of justice; for such certainly was the fact. Her zeal in this good cause has undergone no diminution. The United States followed her example; America stands in the relation to the rest of the world, that Virginia does to America. She took the lead in the humane effort to exterminate this horrible traffic. He rejoiced to see that the great nations of Europe had adopted her precepts, and were imitating her enlightened and philanthropic example. Spain and Portugal constitute the only exception; the former, it is said, with what truth he knew not, has received a pecuniary compensation to abandon the traffic. Should this be true, as he cordially hoped it might be, Portugal will then stand alone. It is reasonably to be anticipated, that she will not be able to resist the incumbent load of the civilized world; when their remonstrances are enforced by the united influence of justice, humanity, and philanthropy. Africa, then freed from those disastrous effects which this trade has produced, may, under the benign influence of peace, reason, and religion, indulge a hope, that in the fulness of time she may participate in the blessings of civilization, with all its beneficent effects. Nor was he averse to adopting measures in concert with any nation, which he believed would be calculated to hasten the destruction of this trade. For his part, he feared nothing from an alliance with any nation, whose only object was humanity. No man could more highly appreciate, than he did, the soundness of the political maxim, inculcated by the Father of his Country, in his legacy to the American people—that of avoiding entangling alliances with other nations; yet, with all his reverence for this wise precept and his determination to pursue its suggestions, he felt no apprehension from the concert proposed. A concert like the one proposed is in its character novel; its object is humanity; while alliances denounced by the above wise maxim, have for their object dominion and power, to be acquired by the misery of mankind; to extricate a nation from which, is not unfrequently attended with a violation of honor; or, if executed, it is frequently with the sacrifice of peace, and sometimes with ruin. But what can we fear? Before any such concert can be taken, the terms on which we unite must receive our sanction; a guarantee sufficient to quiet the apprehensions of the most cautious. In so far, then, as the principal pro-

ject of the resolution is concerned, or the means of effecting it, he would go with the mover; but the part to which he objected, was that proposing that Congress should unite with other nations to produce the object; this he considered to be improper. Congress can act only in its legislative capacity; and, by consequence, can enter into no concert with other nations. That has been assigned to another branch of the Government. It is through the Executive alone that intercourse and arrangements with other nations can be effected. Leave it therefore where the constitution has placed it, without discussing the question how far this body has a right to advise, in its Executive character, the Chief Magistrate upon the propriety of entering into new arrangements with foreign nations; a question on which there is a difference of opinion. He would content himself by remarking, that he believed such an authority had never yet been exercised; but, be the power as it may, it will be readily conceded that this is not one of the cases which would justify it; or, if it were, this is neither the time nor the manner in which it should be performed. It has been urged, indeed, that, by the Treaty of Ghent, America and Britain, having agreed to use their best endeavors to put an end to this traffic, that this course, as now recommended, may find a shelter from criticism in that article; as it is merely in fulfilment of the obligation thereby contracted. Mr. B. conceived that the article in question had no other object, than to furnish to the civilized world an unequivocal testimonial of the sentiments of the contracting powers in regard to this trade. Both nations having, therefore, made use of what they esteemed the best method to suppress it, and entertaining, reciprocally, the most entire confidence that they were sincere in their wishes to effect it, either would repel with scorn an insinuation that an article of this kind was necessary to secure, in future, their zealous perseverance in a course which had been previously adopted, of their own mere will, and which rested upon a much surer foundation than compact, namely, upon their sense of its justice, humanity, and propriety.

Mr. TROUP said he had no intention, when he objected the other day to a part of the resolution, to involve the Senate in a debate upon it; and he very plainly perceived that, at this stage of it, it would be considered premature to discuss at large the merits of the question. But he would submit to the Senate if it were competent to them, in union with the President, to pledge the arms and resources of the country, in a concert with foreign powers, for any object whatsoever. He denied that it could be done in the spirit of the constitution. It would be a pledge of that which we had not. The arms and resources of the country were confided elsewhere; they were deposited, not with the two, but the three branches of the Legislature; and, in fact, were not even to be found there. The people were essentially the depository of them, and their Representatives the organ. Yet it was proposed to pledge, by an act of the Executive power only, the arms and resources of a nation in concert with foreign powers, for the abolition of the slave trade. Gentlemen seemed to entertain very different significations of the term concert; for his part, Mr. T. said, he knew of but one signification, which, in its application to the present subject, could legitimately attach to it; a signification sustained equally by the law of nations, the law of diplomacy, as far as he knew such a law, and the universally received acceptation of the term—concert with foreign nations—Sir, what is it but a term for common councils and common efforts? The gentlemen propose to themselves a great object—no less than the universal abolition of the slave trade; other nations, they acknowledge, hold out against them. Will they be content, then, with a concert of common councils? Assuredly they will not. Between nations common councils mean nothing, unless sustained by common efforts; and common efforts between nations mean nothing less than war, if war be necessary for the object. War must be necessary, so long as other nations assert the right and hold to the practice of the slave trade. It is true that you may begin with negotiation, but it is certain that, if negotiation fail, you must resort to war. What would avail a treaty stipulation which would pledge the United States to exert, in concert with Great Britain, their advice and persuasion to induce Spain and Portugal to abolish the slave trade? Spain and Portugal would care nothing about your advice and persuasion, especially when you told them that you intended nothing more. Rhetoric and eloquence are not the instruments of nations for the execution of grand projects. He was well persuaded that the gentleman from Rhode Island meant to deal in something more substantial; idle and insignificant verbiage could not suit his purpose, for, if it did, he already found it in a treaty. This word concert, therefore, Mr. President, means something—it means connection, combination, alliance, for a given object; it means entangling alliance. You are admonished against entangling alliances; for what reason? Because our Government is one of its own kind, insulated, the only Republic in the world, between which and other Governments there is no common principle, no common feeling, no common sympathy; they may combine for their own interests; they may enter into concert for your destruction; they will not be so ready to combine with you either to promote your interests, or interests common to you and them. You propose a concert with crowned heads! They never concert with themselves, but broils, and quarrels, and wars, follow in the train. History is full of them; and, if entangling connections, sir, between monarchs, who wield the sword and the purse, who make peace and war at their will, be fruitful of these mischiefs, what may we not expect when you enter the lists without the means of doing what you engage to do?

Mr. MORRILL said, that with peculiar emotions, he asked the attention of the Senate to a few remarks on this subject. It was with extreme diffidence he rose to address the Senate on this occasion. I am not insensible, said he, of the extent of the field on which I enter, nor of my inability to explore it. A subject, sir, coextensive with the world, in which this extensive Republic have an interest, and on which, by their delegated Representatives, they may express an opinion—whether they will "use their best endeavors" to effect a complete abolition of the slave trade. Sir, upon this it seems there can be but one opinion.

Coming from New England, where slavery is unknown, my prejudices may be strong, my views enthusiastic; but, sir, allow me to be honest, believe me sincere, permit me to be plain. In New England we believe "all men are born equally free and independent"—thus commences our "Bill of Rights." Whatever their color, powers of mind, property, or rank in society, they are freemen—citizens, not slaves. They have a claim to that freedom in this asylum of liberty. These sentiments, sir, commenced with my existence; advanced with my youth; were strengthened with my manhood; and are confirmed with my age. They are not only mine, but universally the sentiments of those whose confidence and affection have exalted me to this honorable station. Shall I not speak their sentiments on this occasion? Shall I not desire the termination of slavery? It is a duty, sir, I owe to myself, my country, and my God. That respectable section of the nation which I have the honor to represent, has a right to demand it at my hand.

When I examine this resolution, sir, I am unable to discover why any objection should be made. In passing it, we do not say we believe it is expedient to amend "the laws of the United States on the subject of the African slave trade;" nor that we will enter into any "concert with other nations for its entire abolition." But, sir, we say, we are willing to instruct a respectable committee to examine those objects, in all their parts and bearings, as to the expediency of the objects suggested, and report to the Senate, which report will then be under the perfect control of this body. The Senate may then approve or disapprove, as its wisdom may dictate. Where then is the difficulty? For myself, sir, I am in favor of the resolution. Permit me to assign a few reasons. It is founded, in part, on an article of the Treaty of Ghent. The words are as follows: "Whereas, the traffic in slaves is inconsistent with the principles of humanity and justice; and whereas, both His Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed, that both the contracting parties shall use their best endeavors to accomplish so desirable an object." In this, sir, there is nothing very specific, as to the manner in which their desires shall be manifested. But the contracting parties view "the traffic in slaves inconsistent with the principles of humanity and justice," and, therefore, agree to use "their best endeavors," to effect its abolition. How this is to be accomplished, is another point. They may have different views, and, consequently, each may pursue a different course. Therefore, sir, I am perfectly willing to submit the subject to the investigation of the committee, that they may report thereon.

The abolition of slavery was contemplated by the framers of our constitution. Sec. 9—"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808." Here, sir, we see those venerable sages prospectively viewed the period in which we live, when Congress should manifest a disposition to abolish the slave trade. Wise provision! a duty negatively expressed. A provision, sir, which has given rise to a disposition that pervades the United States, to pursue and accomplish the benevolent object. Nay, sir, it is not confined to the United States; it extends to almost every civilized nation on the globe. A spirit of philanthropy glows in the human breast. Spain and Portugal are the only nations now averse to the object. The views of Spain, in all probability, will soon accord with those of other nations. Then Portugal will be the solitary kingdom whose voice and arm are not raised against this inhuman traffic. Let us proclaim, sir, that these sable mortals have a claim upon our philanthropy and our benevolence.

I am in favor of the resolution, sir, because its object comports with the dictates of reason and humanity. Though black, they are human beings, in human shape. That is not their crime, but their misfortune. We then ought to commiserate, not enslave them. Let exertions be made to raise them from their present state of degradation; assist in the mighty work. Every human affection recoils at their bondage. May every benevolent heart beat high for their freedom, and every human arm be extended for their emancipation. It is a cause, sir, in which the world is engaged. As it was commenced by the United States, let them continue their efforts; let Congress say, with all civilized nations, they will joyfully bear a part to accomplish an object so desirable, so humane.

But, sir, I am in favor of the resolution in a political point of view. Carry the great design into effect, and you place those forlorn objects within the reach of political and moral instruction. The basis on which every good Government most firmly stands, is knowledge and virtue. Diffuse and extend these sacred principles, and you enlarge the basis on which your Government is built; and, in the same proportion, you carry the principles of liberty and the rights of man to those who grope in darkness, and aid in the emancipation of those who are bound in the chains of despotism. Virtue and knowledge, sir, are the firm foundation on which this mighty Republic is erected; on which it rises,

and on which it will continue to rise, so long as those divine principles are nourished, universally diffused, and practised. This is what astonishes foreigners when they tread American ground. All classes of society can read and write, can name and give the characters of our rulers, the principles of our constitution, the genius of our Government, and the nature of our laws. This was the reason, sir, France could not maintain a Republican Government. Knowledge and Virtue were not sufficiently diffused through the nation. It was not on account of the extent of her territory, nor the number of her citizens. Monarchy and general ignorance go hand in hand. Despotism and slavery are always companions. This, sir, accounts for the protracted struggle in South America. They have physical strength and the means, but not knowledge and skill, to concentrate their exertions to the best advantage. Did they possess the general information enjoyed in the United States, their independence would be as certain as the rising sun.

Mr. President, I am in favor of the resolution in a moral point of view. We, sir, are a Christian nation. The Bible is our moral guide. Are not its principles sacred, its precepts salutary, and its commands obligatory? Have not the frowns of indignant Heaven, and the threatenings of Jehovah, rested on nations and cities for their ingratitude to their fellow mortals? Babylon—Babylon the great has fallen! What has brought her down? The scene is viewed in prospect. "The merchants of the earth shall weep and mourn over her." In what did her commerce consist? "In gold, and silver, and precious stones, and pearls, and chariots, and slaves, and the souls of men." Ah, Mr. President, this was the climax of their abominations! They had a traffic in slaves and the souls of men. This brought down the judgments of Heaven. That they may be averted from the world, let the inhuman traffic be abolished to the end of the earth.

Mr. KING observed that the motion was to instruct a committee to inquire whether further measures can be devised, in concert with other powers, to put an end to the traffic in slaves on the coast of Africa. The debate, said Mr. K., has taken a wider range than from the definite object of the motion could have been anticipated. The advantages or disadvantages of alliances offensive and defensive, and the policy or impolicy of such treaties, as, with the view of acquiring some complicated though important political advantage, pledge the wealth and strength of the United States, are questions of most weighty importance; the discussion of which, however, is not requisite in debating the motion before the Senate. The concert which is alluded to in the motion, is not the union of arms, but of opinion, of example, and of influence, for the purpose of prevailing on Spain and Portugal to accede to the compact already formed among the nations, to put an end to the African slave trade. Equally uncalled for on this occasion, and more to be regretted, is a discussion of the justice and policy of permitting the existence of slavery. This topic is one, said Mr. K., that, from obvious considerations, has at all times been alluded to, even in the Senate, with great reserve; and, at this time, is without application to the motion under consideration, since not only no Senator approves of the traffic, the abolition of which is desired, but the whole Senate condemn it, and the United States were the first among the nations who restrained their people from engaging in it.

By the Treaty of Ghent, the United States stipulated with Great Britain to use their best endeavors to effect the complete abolition of the traffic in slaves on the coast of Africa. If a committee be appointed, they will inquire what has been done in pursuance of this engagement; they will moreover consider what remains to be done, and whether any measures of concert with other powers, or otherwise, may be calculated to promote the laudable object of this stipulation. The United States have Ministers not only in England, Spain, and the Brazils, but likewise in Russia, France, the Netherlands, and Sweden. These Ministers may be reminded of the very great interest which the United States take in the universal abolition of the African slave trade; they may be instructed, if they are not so already, to avail themselves, on every occasion, to promote this object; and the concurring representations and influence of many may accomplish what their separate endeavors have hitherto failed to effect. A long depending negotiation with Spain still exists. If we could prevail on Spain to add to the treaty settling our just claims, an article whereby she should engage herself to abolish the African slave trade, and to co-operate with us in endeavoring to prevail on Portugal also to abolish the same, such an article would enhance the value of the treaty in the opinion of the American people, and would not fail to obtain the applause of foreign nations. The object of the motion being of such great importance, the Senate should neglect no opportunity of manifesting their solicitude for its accomplishment; and the inquiry which is proposed may fortunately discover that there are means still in our power, which have not yet been employed in this meritorious service.

But it is objected, that this business belongs exclusively to the President; and, admitting its importance, and the expediency of further exertions, that the Senate have nothing to do or say respecting the same. This objection appears to be of most serious import, as it goes to restrain and limit what is deemed to be the constitutional power of the Senate. There is some embarrassment in the examination of this objection, and it cannot be fully and satisfactorily done, without adverting to the proceedings of the Senate, in its executive capacity; proceedings which take place with closed doors, and the journal whereof is not published. The observations on this head will, therefore, be of a general nature,

Without adverting to the several branches of the executive power, for the purpose of distinguishing the cases in which it is exclusively vested in the President, from those in which it is vested in him jointly with the Senate, it will suffice on this occasion to observe that, in respect to foreign affairs, the President has no exclusive binding power, except that of receiving the Ambassadors and other foreign Ministers, which, as it involves the decision of the competence of the power which sends them, may be an act of this character; to the validity of all other definitive proceedings in the management of the foreign affairs, the constitutional advice and consent of the Senate are indispensable.

In these concerns the Senate are the constitutional and the only responsible counsellors of the President. And in this capacity the Senate may, and ought to, look into and watch over every branch of the foreign affairs of the nation; they may, therefore, at any time call for full and exact information respecting the foreign affairs, and express their opinion and advice to the President respecting the same, when, and under whatever other circumstances, they may think such advice expedient.

There is a peculiar jealousy manifested in the constitution concerning the power which shall manage the foreign affairs, and make treaties with foreign nations. Hence the provision which requires the consent of two-thirds of the Senators to confirm any compact with a foreign nation that shall bind the United States; thus putting it in the power of a minority of the Senators, or States, to control the President and a majority of the Senate: a check on the Executive power to be found in no other case.

To make a treaty includes all the proceedings by which it is made; and the advice and consent of the Senate being necessary in the making of treaties, must necessarily be so, touching the measures employed in making the same. The constitution does not say that treaties shall be concluded, but that they shall be made, by and with the advice and consent of the Senate: none therefore can be made without such advice and consent; and the objections against the agency of the Senate in making treaties, or in advising the President to make the same, cannot be sustained but by giving to the constitution an interpretation different from its obvious and most salutary meaning.

To support the objection, this gloss must be given to the constitution, "that the President shall make treaties, and by and with the advice and consent of the Senate ratify the same." That this is, or could have been intended to be the interpretation of the constitution, one observation will disprove. If the President alone has power to make a treaty, and the same be made pursuant to the powers and instructions given to his Minister, its ratification follows as a matter of course, and to refuse the same would be a violation of good faith; to call in the Senate to deliberate, to advise, and to consent to an act which it would be binding on them to approve and ratify, will, it is presumed, be deemed too trivial to satisfy the extraordinary provision of the constitution that has been cited. On the whole, there appearing to be no sufficient impediment in the way of the proposed inquiry, either as respects its expediency or the authority of the Senate to institute the same, I am in hopes that the motion to refer the subject to a committee will prevail.

Mr. LACOCK said the resolution before the Senate contained two separate and distinct propositions; the first was the amendment of the laws that prohibited the introduction of slaves into the United States: on this subject there existed no difference of opinion—all agreed an end should be put to this abominable traffic. If the present statutory provisions were not so formed as to effect this object, they certainly required amendment; and no objection could be made to the inquiry, as this was a legitimate object of legislation. But, said Mr. L., the other branch of the inquiry is of a very different character; it proposes to inquire into the best manner of executing an article of the treaty of Ghent. The stipulations of this article are, that the contracting parties, the United States and Great Britain, should use their endeavors to put an end to the slave trade. But could this agreement be carried into effect by law? Did it furnish a subject of legislation? Laws were made to operate on the people of the United States, and within their jurisdiction, not to effect an arrangement with foreign Governments. This could only be done by treaty; and surely, said Mr. L., the initiatory steps in making treaties should be left with the Executive. But it has been urged by gentlemen in favor of this proposition, that the Senate can act on this subject by virtue of the constitutional power of this body to interpose their advice and consent in making treaties. This argument cannot avail them; for, if we claim the power, and exercise it, as a part of our executive duties, why is this discussion, on the subject of a treaty, had with open doors? Has this ever been the practice of the Government? The Ministers of those Governments who admit and carry on the slave trade, are accredited by our Government—are on the spot, for aught I know, in the lobby or gallery, while we are discussing the propriety of putting a stop to their traffic in slaves. That this branch of the subject is improper for public discussion, is admitted by the gentleman from New York, (Mr. KING,) who has told you he felt embarrassed by this public discussion; that he is restrained by his situation from making observations that he otherwise would feel authorized to make. This concession on his part should convince every one that the proceedings are irregular. While we are thus openly debating the subject, for aught we know, the President is negotiating with other powers to effectuate the object we have in view. He is bound, by the constitution, to see the laws faithfully executed. The Treaty of Ghent has become the supreme law of the land, and it is unfair to presume that the President has neg-

lected his duty. In short, said Mr. L., if we are anxious to have this subject pressed on the Executive, let us close our doors, as in other cases, and make a call on him for information; we shall then be put in possession of the facts officially; we shall know what steps, if any, have been taken, in concert with Great Britain, to put an end to the traffic we all abhor.

The question was then taken on the motion to strike out the latter clause of the resolution, and decided, yeas 16, nays 17, as follows:

YEAS.—Messrs. Barbour, Campbell, Eppes, Fromentin, Gaillard, Lacock, Macon, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Troup, and Wilson.

NAYS.—Messrs. Ashmun, Burrill, Crittenden, Daggett, Dickerson, Fisk, Goldsborough, Horsey, Hunter, King, Leake, Morrill, Morrow, Noble, Ruggles, Tichenor, and Van Dyke.

And on the question to agree to the motion as originally submitted, it was determined in the affirmative.

So it was *Resolved*, That the committee to whom was referred the petition of the committee of the yearly meeting of the Society of Friends at Baltimore, be instructed to inquire into the expediency of so amending the laws of the United States on the subject of the African slave trade, as more effectually to prevent said trade from being carried on by citizens of the United States under foreign flags, and also into the expediency of the United States taking measures, in concert with other nations, for the entire abolition of said trade.

WEDNESDAY, January 4.

Amelia Island.

The following Message was received yesterday, from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of
Representatives of the United States:

I have the satisfaction to inform Congress, that the establishment at Amelia Island has been suppressed, and without the effusion of blood. The papers which explain this transaction, I now lay before Congress.

By the suppression of this establishment and of that at Galveztown, which will soon follow, if it has not already ceased to exist, there is good cause to believe that the consummation of a project fraught with much injury to the United States has been prevented. When we consider the persons engaged in it, being adventurers from different countries, with very few, if any, of the native inhabitants of the Spanish colonies, the territory on which the establishments were made; one on a portion of that claimed by the United States, westward of the Mississippi, the other on a part of East Florida, a province in negotiation between the United States and Spain—the claim of their leader as announced by his proclamation on taking possession of Amelia Island; comprising the whole of both the Floridas, without excepting that part of West Florida which is incorporated into the State of Louisiana—their conduct while in the possession of the island, making it instrumental to every species of contraband, and in regard to slaves of the most odious and dangerous character, it may fairly be concluded, that if the enterprise had succeeded on the scale on which it was formed, much annoyance and injury would have resulted from it to the United States.

Other circumstances were thought to be no less deserving of attention. The institution of a Government by foreign adventurers in the island, distinct from the colonial government of Buenos Ayres, Venezuela, or Mexico, pretending to sovereignty, and exercising its highest offices, particularly in granting commissions to privateers, were acts which could not fail to draw after them the most serious consequences. It was the duty of the Executive either to extend to this establishment all the advantages of that neutrality which the United States had proclaimed, and have observed in favor of the colonies of Spain, who by the strength of their own population and resources, had declared their independence, and were affording strong proof of their ability to maintain it, or of making the discrimination which circumstances required. Had the first course been pursued, we should not only have sanctioned all the unlawful claims and practices of this pretended government in regard to the United States, but have countenanced a system of privateering in the Gulf of Mexico, and elsewhere, the ill effects of which might, and probably would have been deeply and very extensively felt. The path of duty was plain from the commencement, but it was painful to enter upon it while the obligation could be resisted. The law of 1811, lately published, and which it is therefore proper now to mention, was considered applicable to the case, from the moment that the proclamation of the chief of the enterprise was seen, and its obligation was daily increased by other considerations of high importance already mentioned, which were deemed sufficiently strong in themselves to dictate the course which has been pursued.

Early intimation having been received of the dangerous purposes of these adventurers, timely precautions were taken by the establishment of a force near the St. Mary's to prevent their effect, or it is probable that it would have been more sensibly felt.

To such establishments, made so near to our settlements, in the expectation of deriving aid from them, it is particularly gratifying to find that very little encouragement was given.

The example so conspicuously displayed by our fellow-citizens, that their sympathies cannot be perverted to improper purposes, but that a love of country, the influence of moral principles, and a respect for the laws, are predominant with them, is a sure pledge, that all the very flattering anticipations which have been formed of the success of our institutions will be realized. This example has proved, that if our relations with foreign powers are to be changed, it must be done by the constituted authorities, who, alone, acting on a high responsibility, are competent to the purpose; and until such change is thus made, that our fellow-citizens will respect the existing relations by a faithful adherence to the laws which secure them.

Believing that this enterprise, though undertaken by persons, some of whom may have held commissions from some of the colonies, was unauthorized by, and unknown to, the colonial governments, full confidence is entertained, that it will be disclaimed by them, and that effectual measures will be taken to prevent the abuse of their authority in all cases to the injury of the United States.

For these injuries, especially those proceeding from

Amelia Island, Spain would be responsible, if it was not manifest that, though committed in the latter instance through her territory, she was utterly unable to prevent them. Her territory, however, ought not to be made instrumental, through her inability to defend it, to purposes so injurious to the United States. To a country over which she fails to maintain her authority, and which she permits to be converted to the annoyance of her neighbors, her jurisdiction for the time necessarily ceases to exist. The territory of Spain will nevertheless be respected, so far as it may be done consistently with the essential interests and safety of the United States. In expelling these adventurers from these posts, it was not intended to make any conquest from Spain, or to injure in any degree the cause of the colonies. Care will be taken that no part of the territory contemplated by the law of 1811 shall be occupied by a foreign government of any kind, or that injuries of the nature of those complained of, shall be repeated, but this, it is expected, will be provided for, with every other interest, in a spirit of amity, in the negotiation now depending with the Government of Spain JAMES MONROE.

The Message and accompanying documents were read.

THURSDAY, January 29.

Surviving Officers of the Revolution.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain officers and soldiers of the Revolutionary army," together with the amendments reported thereto by the Committee on Military Affairs.

Mr. KING took a comprehensive view of the principal features of the bill, stated his objections to the provision it proposed for seamen, militia, &c., and concluded by moving that the bill be recommitted, and the committee instructed to amend the same, so as to confine its provisions to a grant of half pay for life to the surviving officers of the Revolutionary army on the continental establishment, who served for three years, or until the end of the war, including those who were entitled, under any resolve of Congress, to half pay for life; the half pay so to be granted, to be ascertained by the rank according to which the accounts of the respective officers were finally settled.

Mr. BARBOUR followed, and, after arguing at some length to show the impossibility of providing for all included in the bill, and the impracticability of discriminating between the different classes provided for, moved an indefinite postponement of the bill.

Mr. SMITH said, that, during the discussion of this question, the gentleman from Virginia, (Mr. BARBOUR,) and the gentleman from Massachusetts, (Mr. OTIS,) had contended for the first honors of the Revolution, in the acts of the rival compatriots, Mr. Henry and Mr. Adams. Mr. S. said, if South Carolina could not boast of having been first in the Revolution, he could confidently say she was not the least, nor yet the last. She had performed her ample share. But, if he was to decide to whom the first honor was due, he would say to that band of patriots, who, regardless of the consequences, entered the British ships in Boston harbor and threw the tea overboard. This was the first efficient operation, and posterity would look back upon it with grateful recollection.

Mr. S. said he was well aware of the disadvantages under which he should address the Senate, on the merits of the bill, and the amendment offered by the gentleman from New York, (Mr. KING;) as what he should urge, he plainly perceived, would be in direct opposition to the general sentiment that prevailed in the House, as he was decidedly opposed to the general principles of the bill, as well as to the amendment. If either ought to prevail, he would prefer the bill. The amendment, he thought, was entirely inadmissible. It had for its object a special provision for the officers of the Revolutionary army, in the continental line, to the utter exclusion, not only of the soldiers of the army, but of the militia of every description; many of whom bore a distinguished part in the contest for the independence of this nation. The bill, as it came from the House of Representatives, was more liberal; it makes provision for the soldiers as well as officers; although it makes no provision for the militia, the bulwark of the nation. It also provides for the distressed seamen and marines of the Revolution. But, says the gentleman who offers this amendment, the seamen and marines, as well as their officers, were well provided for; they were entitled to the prize money. The naval force of the United States, at that time, was very inconsiderable. It consisted of two or three frigates, a few sloops, and a few privateers, which had to contend with one of the greatest maritime powers in the world. The consequence of which was, instead of enriching themselves, most of them fell into the hands of the enemy, who threw them into prison-ships and dungeons, where many of them lingered out a miserable life, and perished. And such as did survive, with a few accidental exceptions, were left poor.

We are told we cannot provide for all, as the state of the Treasury will not admit of it; and the officers are to be selected as the only objects of the public bounty. And we are told as a reason for this preference, that something is due to the rank they hold in society, and that some distinction must be made between men. This is a language not known to our constitution. It may do in private life, if a man is disposed to select his society; but, when we are called upon to legislate on the subject, we ought to know of no distinction. It is repugnant to the principles of our Government, and at war with good sense and public justice.

What is the object of this provision? Why, it is said, to relieve the indigent and necessitous; and our benevolence, our sympathies, and our gratitude, are called upon to prompt us to this duty. This is a strange sort of reasoning. Benevolence, sympathy, and gratitude, can draw

no line between the officer and the soldier, when both have served their country, and both are indigent. The tide of pity swells as high for the sufferings of the indigent and necessitous soldier, as it can do for the indigent and necessitous officer, if we are really governed by pity. The morsel you intend to bestow will be as sweet to the one as it is to the other. Several gentlemen have told us we must wait, and feel our way; and if, in future, we should find we are able, then the soldiers might be provided for. If the principle is correct, and the claim is a just one, why not provide for both at the same time? This procrastinating, timid policy, which so lately brought this country to the brink of ruin, and from which you were roused by the people, is not so well suited to their genius. They are more magnanimous; and if there exists a debt of justice, or even a debt of gratitude, which their country is bound to discharge, they will submit to be taxed to enable the Government to pay it. The Government is now one hundred millions in debt, and because there is a little money in the Treasury not immediately wanted, we are endeavoring to establish a pension system to get rid of it, and pave the way, when our debts become due, for laying another tax in the place of the one you have just repealed. Mr. S. was in favor of repealing the internal taxes. It was right to do so. But can we believe the public mind is prepared to pay a tax to maintain a pension system, because it is said that those officers cannot submit to any industrious pursuits for a living? There are thousands of poor who are unable to work, that demand your attention in an equal degree. And are you prepared to put all your poor on the pension list?

It is said this is a just debt; that, under the confederated Government, Congress had engaged to make these officers half-pay for life; which they were induced to commute for five years' full pay; and that this five years' full pay was discharged in certificates, which fell a prey to speculation; and the Government ought to pay them over again. As respects those Revolutionary officers, the Government has acted with perfect good faith. It performed with fidelity all its engagements, as far as it had ever promised, or as far as any hope or expectation had been raised or excited, and that at the earliest possible period within its power, after the conclusion of peace. It is well known that the United States had not the means of paying its army immediately at the close of a seven years' war, in gold or silver. But it is as well known that they did not pay that army in depreciated Continental money. That had gone to oblivion in the hands of those who had given support to the army. Their full pay for real service performed, as well as for five years' full pay after their service terminated, was liquidated and settled at the specie standard; and Government certificates given, which bore interest from the date; and the faith of the nation was most solemnly pledged to redeem them.

With this view the Government, among its earliest acts after the adoption of the Federal Constitution, established the funding system; and these very certificates were worth twenty-six shillings in the pound, and at that price this nation redeemed them. If there was a speculation, the Government had no hand in it. On the contrary, whilst it suffered every other species of public security to perish in the hands of the meritorious holder, it gave a distinguished sanction to these claims, and paid them with scrupulous punctuality. No speculations took place as regarded these certificates until after the funding system was established. These officers were then apprised of their rights, and if they did not think fit to protect them, the Government could not be blamed. Speculations did run high at that time, but the officers were not the victims of it; the soldiers were the persons who fell a sacrifice to its ravages. Many of these officers are honorable men, and stand superior to any such charge; yet it is a fact not to be denied, that many of them enriched themselves by speculating, in their turn, on the poor soldiers, in buying their certificates and land warrants at very reduced prices. It was not in the power of the Government, nor was it the duty of Government, to guard against the speculations that succeeded. It is a monster that pervades every quarter, and almost every department, and if it was the duty of Government to repair its ravages, the treasures of Peru would not be adequate to the demand.

But, Mr. S. said, upon the most mature consideration, he was opposed to both the bill and amendment in any form in which they could be presented. Because he believed no particular merit could be ascribed to any particular portion of the people of the United States, for services rendered during the Revolutionary war, in exclusion of any other portion who espoused that cause. It was as essential, and as indispensable, to the support and maintenance of that war, that many of your citizens should have been engaged in other spheres, and employed in other occupations, as it was that you should have had an army to fight your battles. And one could have been as well dispensed with as the other. This was not a war carried on in your enemy's country, nor were those officers and soldiers sent from home into a foreign country, where they alone were forced to fight your battles, and undergo the toils of war, without any regard. But this was a war of a very different character. This was a war brought by the enemy into your own country; a war brought to every man's door, and in which every man was obliged to take an active part in some shape or other. Yet every man could not be in the army. This was a war of a different character from all other wars. It was a war for liberty and independence, in which every soul was engaged, and in which every one contributed, by every means in his power, or your independence would have failed,

even if your army had been five times as strong as it was.

This was not a mercenary army; not one officer was there for the sake of money; but to do his duty. And it is to be recollected, on this occasion, as in the late war, there was a great solicitude for commissions. It was not only the post of honor, but often a place of safety. Other portions of your citizens were active in the public councils, without whose bold and high-toned measures, taken at the hazard of their lives and fortunes, your army would have sunk into insignificance. Whilst others, from a pure love for their country, fed and clothed your armies, supplied them with wagons and horses, and every thing else which they could furnish for its use, without any compensation. By their means, and by their means alone, you were enabled to carry on a seven years' war, without money or credit; a thing unparalleled in the history of any other nation upon earth. They had the ostentatious show of being paid for it in Continental money; which fell dead in their hands, without a single effort on the part of the Government to redeem it. By your Continental money, thousands of the most devoted friends of the Revolution, who lived in affluence and comfort, sunk their whole fortunes in its cause, and are now living in penury and want, with no other consolation than that of dying poor in the cause of their country. They yielded to their misfortunes without a murmur, believing that all were bound to give their aid, and satisfied they had given their full portion. And, because they were not in the Continental army, they have no credit for all those sacrifices. Of what use could an army have been, if this aid had not been afforded, and in this particular way? for you had no other possible means of subsisting it. This was the very life and soul of the army, and the very life and soul of the cause in which they were employed. Without it your army could have done nothing, and you would yet have been under the British Government. It is a maxim brought from another science, which applies as well to governments as to individuals, that you ought to be just before you are liberal. Before you speak of liberality to the Continental officers, redeem your Continental money, and relieve that numerous class of men, widows, and orphans, on whom it has entailed so much misery and poverty. They have a strong claim upon your liberality, your gratitude, and your justice, although they do not assemble around you, in this Hall, as Belisarius, who is presented in your lobby, leaning on his staff, at the moment this subject is called up, as if your cool and impartial judgment stood in need of this artificial aid.

Several gentlemen have, with much confidence, asserted that we are exclusively indebted to the Continental army; that the civil and religious liberty we so pre-eminently enjoy, are the fruits of their toils. Mr. S. said he was sensible of the great merit of that army, and believed they had done a great deal in the cause of liberty; yet, he had no hesitation in declaring, that they had not done more than they ought to have done; nor had they done more than fell to the lot of every American devoted to his country. That army did not meet the common foe, and repel him from your borders with its single arm, and leave all the rest of the community at ease and security under its protecting banners. Gentlemen who believe so, if there are any such, know but little of the character of the Revolutionary war, or the manner in which it was carried on, in the three Southern States of North and South Carolina, and Georgia. They are perfect strangers to the sufferings and privations, as well as the exertions and patriotism of the people of those States; not of such as belonged to the Continental army—during their worst times there was no such army there—but of the volunteers and patriots, who, inspired with an invincible love of liberty, were determined not to yield. All the Continental army was in the Northern States, even to the troops which had been raised in the Southern States, except a few who were occasionally sent, and who were defeated as soon as they came, and which gave no sort of security to the property, the persons, or the lives of the inhabitants.

Mr. S. said it was impossible for gentlemen to know the character of that war in the South, unless they had been there to witness it, and he saw but one gentleman in the Senate (Mr. MACON of North Carolina) besides himself, who had. All the rest were remote from the scene of action, or had since grown up. So it was in the House of Representatives, where this bill originated. Though much distinguished for their talents and worth, yet most of them also were remote, or have been born since that war commenced. Its true character can never be learned from history. The historian never has, nor never will, record many of the most striking events, which so much distinguish it from all other wars, and which so distinguished it as carried on in that section. The historian acquires his knowledge from sources, in most cases, as uninformed as himself, and often bestows the laurels on heroes who never fought the battles. He was not himself far enough advanced in life to bear an active part in the operations of the war, but was old enough to observe all the passing events, and had a perfect recollection of them.

All the Continental troops sent to the southward, previous to 1781, were totally defeated. General Lincoln lost several successive battles, and never gained one, and was, with his whole force, finally taken prisoner. General Gates, who succeeded him, shamefully fled at the fire of the first gun, and left the citizens to the mercy of the enemy. These successive defeats left the country entirely exposed. The British not only supported their whole army for two years, by plundering indiscriminately from all who refused to take protection, their cattle, their hogs, their sheep, their corn, rice, and forage of every kind, but they turned loose the

savage Indians upon the defenceless frontiers, who butchered them without regard to age or sex. By these disasters, the Tory parties, that everywhere infested the country, became increased, and, with a fury more unrelenting, and no less savage than the Indians, plundered, burned, and murdered wherever they went; and the whole country became a perfect scene of internal warfare. They not only stole and plundered to supply the enemy, but wantonly burned and destroyed to distress the country; they waylaid and murdered the Whigs wherever they found them; sometimes murdered them amidst their families, with their wives and children around them, begging in vain for mercy. They burned up their houses and plantations, and with them every thing that could give comfort or support to the distressed women and children, who were reduced to a morsel of bread, and very often could not get that. The British army pervaded the whole country, and, wherever they went, left destruction in their train. That whole country was a wide waste; nothing presented itself but ruins, poverty, and distress. The cultivation of the fields, in many places, was left entirely to the women and children. Plundered of every hog, horse, cow, and every thing else for their support, many mothers and daughters, who had seen better times, were obliged to lay down their domestic employments, and go to the fields and work like slaves, without the aid of a horse to plough, to raise a little corn to subsist themselves and their little children; and very often even this hard-earned morsel was plundered from them, or destroyed by the enemy. This picture may appear to be exaggerated, but there are many who know it to be correct, and who remember it with bitter regret.

Whilst their women and children were left in this forlorn situation, the men sought their safety by imbodying in such parties as circumstances would allow. If they could not collect a hundred, they could collect fifty; if not fifty, twenty, or ten, or five. Armed with their rifles, with more than veteran bravery, they hung upon the borders of the British army wherever they went; sometimes firing upon the whole army, or cutting off their foraging parties, and circumscribing their ravages, to their great annoyance; and they became the scourge of the Tories in all quarters. This was the foundation of that military force which proved so formidable to the British arms, and gave them the first check in the Southern States. After losing all hopes of any relief from the Continental army, they threw themselves under Campbell, Cleveland, Shelby, Hill, and others, without one Continental officer or soldier among them, and totally defeated Colonel Ferguson, the best partisan officer in the British army, at the battle of King's Mountain. It was this character of men, who, under Colonel Pickens, as their commander, composed two-thirds of that inferior force, General Morgan's detachment, which completely defeated the British legions and infantry, under Colonel Tarleton, at the Cowpens; and this officer never had been defeated before.

Can it be said these men owe their independence to the Continental army, for whom you are now about to provide? Whether you consider them as patriots, or soldiers, or as sufferers, or conquerors, they are entitled to as distinguished a rank as any portion of the Continental army during the Revolution. When these transactions were fresh, and their importance and worth well understood, there was a public opinion, competent to decide, that did them justice. But, when thirty-six years have elapsed, like every thing else, not performed by great men, they are forgotten.

Gentlemen have spoken of the militia service as of very little importance during the war; and seem to exclude entirely from any merit all but the Continental army and its officers; and one gentleman has intimated they could not be trusted as regards their veracity and honor. Who fought your battles, sir, before you had a Continental army? Who fought your battles at Lexington, at Concord, and at Bunker's Hill, at the first dawn of the Revolution, that, like the electric spark, pervaded every rank, and gave a tone to the war that only ended with it? These warriors were your militia, collected upon the spur of the occasion, from their shops, and their domestic and rural pursuits; and, roused by the eloquent and immortal Warren, and his compatriots, they displayed an intrepidity not surpassed by your Continental army. Who fought and dispersed that numerous and formidable body of Tories, on Cape Fear, in North Carolina, who were corrupting the minds of all around them? It was the militia, collected upon a single day's notice, who, with their provisions and their blankets on their backs, marched to the scene of action, under General Caswell, with a promptness unknown in any but freemen, and defeated their enemy without the loss of a man, or without costing the Government a single farthing, and restored peace and order to that country for a long time after.

Who defended Charleston on the memorable 28th of June, 1775, before you had any Continental army there? Where the whole British fleet, consisting of two fifty-gun ships, several frigates, and a number of smaller armed vessels, were repelled, and some of them burned. The enemy, after a battle of ten hours, were obliged to retire with great loss on their part, and very little on the part of the Americans. The inhabitants of that city contributed much to this defence, and, but for General Moultrie, the whole garrison would have been surrendered by General Lee, who was the superior officer, and who, it is to be recollected, was a Continental officer. Who composed the active corps under Sumter, Hampton, and Middleton. Those gallant men were inferior to none, and did more good than all the Continental soldiers you ever had there. Yet there was not a Con-

tinental soldier among them; nor does one of them come within the provisions of this bill. Marion raised his men within the British lines; their food was what they could catch, the earth was their bed, and the heavens their covering, and the swamps and marshes were their stronghold. These men were in this service for more than a year; they fought more battles, gained more victories, killed more British and Tories, in proportion to their own number, than any other class of men upon the continent; and gave more relief to the Americans, and more annoyance to the enemy. These brave fellows never cost their country so much as a single charge of powder; they furnished even their own arms, and they used them like heroes. "These were times that tried men's souls." The Government gave them no pay, and they are excluded from its bounty by the bill before you. These men are not indebted to the Continental army for their independence.

In the two celebrated battles of Guilford and Eutaw Springs, under General Greene, a considerable part of his men were militia. Although there were Continental troops among them that distinguished themselves with great bravery, yet the number was very small; and the militia, and especially at Eutaw Springs, were not inferior to the Continental troops, and did more service. These were said to be the best fought battles during the war. While these scenes were going on in the Carolinas, Georgia, under Clarke, Williamson, and others, was a perfect scene of bloodshed. Notwithstanding all this, they are called ephemeral, and we are told the militia cannot be relied on either as respects their bravery or their honor. Sir, among these militia, there were men as honorable as ever breathed, and as brave as ever drew a sword. And the Government is as much indebted to them for their bravery, perseverance, and sufferings, and owes them as much protection and support, as any portion of the Continental army.

The principle of gratitude has been strongly pressed. It is said we are reproached with ingratitude by the European nations. And what is it they have not said to reproach us? They have said we are barbarous, savage, and ignorant; incapable of governing ourselves; that all Republican Governments have fallen; and that we have been ungrateful to our armies. And it was only since the late war, the common people of Europe knew we were white men. But, they have at last found out that we are not only white, but that our Government has some energy. And if they will compare what we have done for our army, with the condition of their own, they will find also that we are grateful. The Kings and Princes of Europe sometimes sell their armies to one another to fight their battles abroad—or they hire them for a job; and all that are not returned, are paid for at a stipulated price. The Hessian troops, attached to the British army during our Revolutionary war, were hired on these terms. However, if any are returned, that are worn out in service, they are stowed into a hospital for the remainder of their days, but they get nothing else. If there is a favorite officer, he is converted into a lord, and a large pension is settled upon him, and his heirs; and the people are taxed to support them. It is the pensioner who complains of our ingratitude, and not the farmer and mechanic who pay the tax.

This Government gave to each Continental soldier, at the close of the war, his pay for services, and a valuable tract of land, which was giving him the best means in the world to enable him to live happy. It paid the Continental officers for all their services rendered, and five years' full pay after the war had ended; and gave each a large tract of land, which has been a fortune to all who took care of it, and their children after them. In addition to this, there has not been an office of honor or profit in the gift of the United States, or any individual State, which has not been filled by a Continental officer, if he asked for it. And the Government has given to every officer and soldier who has applied, a pension for life, if he had been wounded or disabled in the public service. Let the two be compared, and see on which side the gratitude preponderates, and then let us be told what the despots of Europe say.

All the despotisms of Europe have had their foundations in a claim to military merit. All their pensions and places originated in it. All the orders of knighthood and other distinctions now so oppressive; the feudal system, which so completely prostrated the civil liberty of all Europe, against which the wisdom of ages has not been able to prevail, originated in it. All their usurpations, and all their changes of empire, were commenced and supported by it. It was military fame that enabled Cromwell to turn out of doors a British Parliament, and assume the reins of Government. It was military distinction that prompted Bonaparte, at the head of his army, to supersede the French Convention, and put himself upon the imperial throne, and devastate almost the whole of Europe. Your own Revolutionary officers, for some of whom you are now providing, at the close of the war associated themselves into a military order, and called it the Cincinnati Society, after the celebrated Roman General, Cincinnatus, who left his plough with regret, when called by his country to the head of the army; and after he conquered the enemy and returned in triumph, he laid down his office, and retired back to plough his fields at the age of eighty years. This society, too, made an early effort to perpetuate itself, and ordained that the son should succeed to the military honors of his father. However, it was frowned upon; and they soon found it too much of an exotic to flourish upon this soil, and the hereditary clause was abolished. This hereditary quality was not in conformity to their great prototype,

Washington. He, with true Roman virtue, returned to perform the duties of a citizen, and maintained himself by the sweat of his brow, after he laid down the pursuits of a soldier. It is difficult to imagine why our American officers and soldiers did not do so too. Many of them did, and are rich from their own industry. No country upon the globe ever presented more facilities than this. But the Roman virtue has lost its charms, and we are imitating nations nearer our own times. It is not the amount which this measure will cost the nation that is the most objectionable, but the abominable perpetual pension system that is to grow out of it. It may not be immediate; it is to come on gradually, as all other systems of oppression have done. And when we are gone to rest posterity will writhe beneath the yoke, borne down by hearth money, excises, and taxes, to support pensions and places—the curse of a nation.

Mr. MORRILL said he should not, at this late hour, and advanced period of the debate at which he rose, detain the Senate with many remarks on the subject now under discussion.

The object suggested in the President's Message, said he, and that which is also contemplated in the bill from the House, is to afford relief, by pecuniary assistance, to surviving officers and soldiers of the Revolution, who are now in indigent circumstances. It is intimated that it is impossible to frame a bill which shall equitably meet the wants, relieve the necessities, and satisfy the expectations of this meritorious class of our fellow-citizens. I do believe, Mr. President, that the wisdom of Congress is competent to form a bill, the details of which shall meet all reasonable expectations on this subject. But as the merits of the bill are not immediately under discussion, I pass them to the motion which is directly before the Senate, that the further consideration of this subject be indefinitely postponed. To this motion, sir, I am opposed, and shall assign some reasons. To pass this resolution, would be, in effect, to put this subject at rest; if I may use the expression, to wink it out of sight. To this, Mr. President, I cannot give my assent. If we take a concise view of our country previous to the declaration of independence, and the trying scenes through which our fathers passed to gain and establish this independence, I presume we shall be fully satisfied, that the few remaining veterans of the Revolution, bowed down with infirmity and age, deserve the interposing hand of the National Government for their relief, for the mitigation of their wants in their declining years.

What, sir, was our situation antecedent to the bold assertion of our independence? We were an oppressed, insulted, degraded people. We were burdened with unjust acts and duties, too offensive and unreasonable to be endured by a people sensible of their rights and privileges. We were invaded by an armed force. The same power who we had reason to expect would, as a parent, protect our privileges, entered our harbors, blockaded our ports, landed an army on our shores, demolished and burnt our towns, and fought and killed our citizens. These events roused the spirit, called forth the energy, and marshalled the strength of the nation. This was a time that tried men's souls; this was the day in which the patriot and the hero distinguished himself from the sycophant of a deluded monarch. Independence was declared by a new Government, imperfectly organized. Now, sir, it needed the co-operation of the whole strength, patriotism, and energy of the nation. The heroes of the country flew to arms; they ran to the field of battle; they met the invading foe, and repelled him with undaunted determination.

And what were the sacrifices of those who fought our battles, and achieved the numerous blessings which we enjoy? Many of us, Mr. President, who have seats in this House, who are participating the favors purchased by their toils, and basking in the beams of national glory, were too young minutely to recollect the distresses of that day. Those who were of age, and were active on that memorable era, have informed us. History has not been silent on a subject so momentous.

Were I to endeavor, sir, to paint to you the sacrifices of those times, I should fail in the attempt. I will only say, they forsook every domestic accommodation; they left their homes and their families, and submitted the cultivation of their farms, in numerous instances, to their wives, their little sons, and their daughters, who were under the necessity of laboring in the field to procure subsistence; while they endured the noisome camp, the fatigues of an army, and the dangers of battle. But, sir, their efforts were not unsuccessful; they disputed the ground at the cannon's mouth; they survived the mighty conflict; they obtained the ultimate object—national independence; and some of them now live to enjoy the fruit of their labor, though in indigence and want. These are the characters, Mr. President, whose necessities I wish to relieve. Providence has protracted their years; they are declining under the pressure of poverty and age; they are now petitioning you for assistance. Will you suffer the gray hairs of these veterans of the Revolution to come down with sorrow to the grave? They, sir, have a claim upon your benevolence and humanity—nay, more, your justice. Though some honorable gentlemen suggest that these Revolutionary patriots, having been well paid, have no claim upon the justice of Congress, I am inclined to think otherwise, because I conceive many of the infirmities under which they are now groaning, are in consequence of the privations and exposures endured while in the service of their country. In the camp and the field, their constitutions were broken down; the natural effects of which are infirmity and distress in advanced years.

Permit me, Mr. President, to ask the honor-

able members of this Senate, if they are willing to see the warworn soldiers of the Revolution hovering round their dwellings, round this Capitol, asking for a pittance, and not manifest a disposition to afford them that pecuniary assistance necessary to supply the cravings of nature, and repair their tattered garments? This is the only tribunal to which they can apply. Shall they seek in vain? Shall those who met the foe at Lexington, Bunker's Hill, Monmouth, and Bennington, supplicate your aid without success? No, sir; we, who possess the blessings procured by their sufferings, have too much magnanimity, too much humanity! They need assistance; they merit assistance. It is to the indigent that I would extend the hand of liberality. And, sir, so long as I have the honor of a seat in this House, I will exert my feeble powers for the mitigation of the necessities of those who, by their valor, toils, and blood, achieved the civil and religious privileges which we now enjoy.

Mr. MACON, of North Carolina, said, when he came to the Senate this morning, he had no intention or expectation of saying a word on this question, which had excited so much feeling. It seemed to him that the friends of the bill founded their arguments entirely on feeling—a feeling, he was ready to acknowlege, of the most honorable kind; but he was not perfectly satisfied that it was proper to legislate on feeling alone. The constitution certainly never intended it, or it would not have required a certain age for any appointment; nor did he believe the motion to postpone liable to the objection which had been made; that the friends of the bill were forced to defend it as it was, when they wished to amend it. The motion was agreed by all to be perfectly in order, and it only brought the principle of the bill into debate, which gave both sides the fairest opportunity to urge whatever they thought proper; and this he conceived ought to be the nature of every first discussion, especially when a great and important change was about to be made in the character of a long-established law; the principles of which were settled by the Revolutionary Congress, and not attempted, he believed, to be changed before the present session. A debate like the present ought always to take place in every legislature, when motions which only contain first principles are under consideration, and cannot with propriety be omitted.

Mr. M. said he felt more than usual embarrassment in attempting to speak at this time, because there was reason to suppose that a great and decided majority was opposed to him, and it was not agreeable to speak to those who were prepared to vote, but it was all that a minority could do to state their opinions, and because, contrary to the practice of the Senate, two motions, distinct from each other, had been debated at the same time; that of the gentleman from New York (Mr. KING) to recommit the bill to the Military Committee, with instructions so to amend it, as only to include the officers who were in service at the end of the war, and that of the gentleman from Virginia (Mr. BARBOUR) to postpone the bill and motion to a day beyond the session. He would here say, that the observations of the gentleman from New York, in support of his motion, had not convinced him, that a discrimination such as he desired, or any other, could with justice or propriety be made. To discriminate in a satisfactory manner, at any time, or in any country, between those who were equally worthy, was a task not easily performed; that gentleman having failed to show that it could be done, as he with great deference verily believed, it might now be considered as utterly impossible, and would not, in his opinion, be attempted by any other.

Mr. President, when the character, numbers, and wealth of the British nation, to which may be added its constant preparation for war, are compared with the situation of the United States at the commencement of the Revolution, it must prove to all, that every whig in the country had as much as he could do to maintain the independence which the Congress of 1776 had manfully declared, to the joy of the nation, and which the whigs boldly determined to defend at the risk of their lives and their fortunes. It was the day that tried men's souls. The immortals words "Liberty or Death," on the hunting shirt of every friend of the Revolution, contained nothing but the truth. The practice was according to the motto; but now, no matter what services may have been rendered, unless the persons who rendered them were in the regular army, they are not to receive a cent under the bill, though they may have paid many. The bill does not provide for one-half who have equal merit; as to claim, there is none; and the motion of the gentleman from New York will leave a much greater number not provided for. No man can estimate higher than I do the worth and service of the Continental troops, but the fall of Charleston left none in the Southern States, and it is certainly true, that after that event the men commanded by Sumter, Marion, and Jackson, rendered as much service as any in the nation; in fact, they had no superiors; they left their wives, their children, their homes and their all, to the rage of a victorious enemy, who was in pursuit of those he declared rebels, and enraged neighbors, in the most gloomy and disastrous period of the great struggle, to fight for their country, its liberty and independence. Nor is there any provision for that man, with his small band of warriors, who started with their parched corn on their backs, into the country, or rather wilderness, mostly inhabited by savages, and gained by their victories a country to the nation, out of which five large States will be added to the Union; indeed, two are already added, and a third soon will be. It is scarcely necessary to state that General George R. Clark and his warriors are meant. Can justice, honor, generosity, or feeling, require that all these, together with the widows and children of those who were slain in battle,

as well as the deranged officers mentioned by the gentleman from New York, should be taxed to support their fellow patriots, who were at that time, as far as respects the officers, in a more enviable situation? It is well known, that the deranged officers constantly complained of their being deranged, and that they preferred to have been continued in the service; many of them, not willing to stay at home, obtained commands in the militia, and in that way served the country. Nor ought it to be forgotten, that tents and all camp utensils were never plenty, and often scarce, and that the regulars were always first supplied with whatever could be furnished, and that too with the best there was; whatever was left, after furnishing the regulars, was divided among the militia, who were frequently without tents or camp utensils, unless they carried them from their homes, and in many parts of the Southern States these necessary articles were not abundant. In wet and stormy days it was not uncommon to see tents formed by two or three or more men putting together not their blankets, for but very few had them, but bed covers, which had been spun and wove at home; those who were not fortunate enough to carry any thing of this kind, stood by trees with bark or whatever they could get to cover their heads to keep the rain off. The character the war then assumed, forbade any article necessary or convenient to the soldier to be in plenty; there was nothing like it in any other part of the nation, if in the world. In calamity and fury it so far surpassed a common civil war, that the name is improper for it. He knew not by what name to call it, perhaps a domestic war would come nearer to it than any other. In the parts of the country where the Whigs and Tories were mixed, it was neighbor against neghbor, house against house, and neighborhood against neighborhood; destruction and death were the orders of the day; each party hunted the other, either alone or in numbers, as circumstances would permit—neither trouble nor pains were spared to destroy and kill. In many places, houses, fences, and every thing necessary to support life, were burnt, leaving the women and children only with the clothes they had on, to depend on a more fortunate neighbor for sustenance and shelter. In some cases this was done, when the husband or son, or perhaps both, were confined in jail, because they were Whigs; many plantations were left without stock of any kind, not a horse nor cow, in this forlorn condition to be cultivated by the women and children, who, if they were fortunate enough to gather a part of the corn they had labored to produce, were compelled to beat it in a mortar into meal, or carry it themselves to a mill to be ground, if one was left in the neighborhood. Places may yet be seen where houses were burnt, which yet remain not built on. The rich and the poor who survived, and who would not agree on any terms to remain neutral at home, when parts of the country were overrun by the enemy, shared nearly the same fate, left with nothing but life and liberty.

Many gallant actions were performed in this neighborhood war, which history will never record, and many gallant and patriotic men fell, whose names will in a little time be forgotten in this their beloved country, for which they freely shed their blood and lost their lifes. Mebane and Kulp are of the number who were slain in these terrible conflicts, and are now almost forgotten. These engagements were generally fatal and sanguinary in proportion to the few that fought. With permission he would repeat that it could not be just or right to tax these people to give a pension to any, because they were in the regular army; it seemed like taxing the bones of the brave and the ashes of distress; the officers of the army, at the end of the war, received five years' full pay, and both officers and soldiers land from the United States; besides, every State which had back land unsettled, gave land to the same officers and soldiers, which were raised in the State. But it is said that the Continental troops were paid in depreciated certificates, not worth more than one-eighth of their value. This is undoubtedly true; yet they were considered to be more valuable than the State certificates, in which the others were paid. Certificates were then the only currency of the governments; they made all their payments in them. After the fall of the paper money, provisions for the army were frequently taken from families which could not well spare them. Whenever necessity compelled this, Whig and Tory fared alike; but a certificate was the only payment. The depreciation was a national calamity, from which no one was exempt; it was as general as the liberty we now enjoy, and, though equally free, we are not now equally rich.

We have been frequently told that some of the officers and soldiers of the Continental army are poor. This no doubt was true. He also believed it was equally true that some of the troops which he had mentioned were equally so. This will be the case among every class of men; some will get rich while others do not; there is a time to get and a time to spend; the industrious and careful will either get rich or comfortable, while those who are not so, will neither be rich nor comfortable. To undertake to provide for those who will not provide for themselves, will, on experiment, be found an endless task; it may suit other countries, but it does not this; it will drain any treasury no matter how full, and, instead of repealing taxes, new ones ought to be imposed. Pass the bill, and the pension will not do those who do not provide for themselves as much good as it will others, who know their failings, and will take care to be with them when it shall be received. The gentleman from Maryland (Mr. GOLDSBOROUGH) wishes the bill to pass, to do away an opinion which had been entertained, that Republics were ungrateful; he did not state it to be his opinion. It was a pleasing fact that

the history of the United States did, in the most satisfactory manner, prove that it was not true, as it regarded them, nor did he believe it, as it regarded others. It has been promulgated by the flatterers and sycophants of kings and despots, to become their favorites and pensioners, to live sumptuously on their folly or wickedness, or both, on the profits of the labor of those who were more virtuous and better than themselves. The opinion is founded in idleness and hatred to free Governments, where every man ought to live by the sweat of his own brow—where no man ought to be paid to do nothing. But, do as you will, the same class of people will entertain and promulgate the same opinion; and he was unwilling to attempt to do away the opinion by passing that which he conceived to be an improper and unjust act. He would add, that, in despotic Governments, to complain would be deemed a crime, and that the only liberty enjoyed was that of abusing Republics.

It has been said that the officers of the Revolutionary army would have been severely punished if the United States had been conquered. This, he believed, was not thought of at the time, because no Whig ever calculated on being conquered, and every one had determined not to be. But whether they would have been punished more severely than others, he did not know; all had committed openly what, in that case, would have been deemed treason. He, however, was of opinion that the most severe punishment would not have been inflicted on the army. The history of the times warranted the opinion. He rather thought it would have been inflicted on those daring patriots who were members of the first Congress, those who declared independence with the halter about their necks, and those who ordered an army to be raised. These are the men, he thought, on whom vengeance would have been taken. Permit me here, said Mr. M., to state what was certainly true, and that too in praise of a class of men who rarely received praise—that no class of men in the nation had more merit for the Revolution than the lawyers. Where he was acquainted, they were all Whigs; he did not at this moment recollect a single exception. They understood better than most others the rights and privileges of the then colonies, and exerted themselves, with advantage to the country and honor to themselves, to persuade others to examine and understand them; they succeeded, and we now enjoy the benefit. He hoped this digression would be pardoned; he had only given the well-merited praise. He would return to the subject. If the pensions are to be given, because the army deserved well of the country, and some of them are now poor, would it not follow that all who deserved well, and are now poor, ought to receive a pension? Would it not follow that if any members of the Congress he had mentioned, were now alive and poor, that they, too, for the same cause, ought to have a pension? It would, he thought, be difficult to give a reason for one, which would not apply as forcibly to the other. The deserving well and being poor, would apply equally to both. He repeated that he wished it to be distinctly understood that he was not denying the worth or merit of the Revolutionary army. God forbid that he should; he never for a moment entertained a single sentiment that even tended toward its dishonor; but he was opposing the principles of the bill, and the motion to recommit, both of which he fully believed were against the principles which carried it into the field. Nor did he mean to class them with the seventeen hundred applicants for office in the late war, which had been mentioned. He, however, felt no hesitation to acknowledge that he approved their conduct; they did what at all times they ought to do—show a willingness to aid their country in defence of its just rights, and to take part in a war which had been emphatically called a second war for independence. Pass the bill, and it makes a precedent for the army engaged in that war and in every other. Precedent is now almost equal to the constitution, and will probably, in a few years, be quite so. It does not require the gift of prophecy to foretell that thirty or forty years hence, as much may be said in favor of the army engaged in the second war for independence, as we have now heard about the first, though as much may not be said about the state of the country and of the sufferings of the people, because the facts will not warrant it. The troops, however, in the late war, in the uninhabited parts of the country, suffered greatly, and bore their sufferings manfully. The victories obtained by them have not been surpassed in any age or any country; they were fully equal to those of Lexington and King's Mountain; but the men who fought these two glorious battles are not provided for in the bill, because they were militia.

It is not improper to observe, that pensions in all countries begin on a small scale, and are at first generally granted on proper considerations, and that they increase till at last they are granted as often on whim or caprice as for proper considerations. The bill is an entire departure from any principle heretofore established in this country; it requires little or no proof to get the pension, and it gives to all alike, without regard to disability or meritorious services. The history of the half-pay for life, and the commutation for it of five years' full pay, show as clear as daylight the opinion then entertained by the nation on the subject of pensions, and the bill as clearly shows how much that opinion has changed since, and that the opinion in favor of pensions is fast gaining ground. It seemed to him that it must operate on the mind like sweet poison does on the taste; it pleases at first, but kills at last. The objects to whom they are granted are only thought of at the time, without reflecting that a part of the money to pay them is to be taken from those who are not in a situation to spare it conveniently; the few rich are not apt to complain of taxes, especially if they believe they

are intended to promote what they deem the glory and splendor of the country; they take a full share of that to themselves, and they can live well and pay the tax; but it is not so with the poor; every cent taken from him diminishes his comfort and lessens his independence. It is quite probable that some of the poor, who may contribute their mite to pay the pensions given by the bill, may have been reduced to poverty, by the enemy's burning and destroying their property, for fighting on the same side, and probably in the same battles with those who are to receive them. He would just remark, that he did not think this a proper place to speak of our charity at home. Charity is commendable in all men, it is enjoined on all men, but it ought to be so given as not to let one hand know what the other does. Besides, our private worth, whether for charity or any other virtue, is best known to our neighbors, who always duly appreciate it. He had heard so much said of the feelings of gentlemen on this interesting and important question, that he was almost induced to doubt whether he had as fine feelings as others. He, however, hoped he had, but others must judge, not himself; but, whether he had or not, he could not consent to gratify them at the expense of his judgment.

The old Congress is often praised and always deservedly; on the present occasion it would seem proper that their decision should have great weight, as they conducted the Revolution, raised the Army, and settled with it, and gave to each individual whatever was his due, under all the circumstances of his case. It may not be improper to state that that Congress only paid the Continental troops; the militia and State troops were paid by the States to which they belonged, and the States granted and paid them pensions till within a few years past, when the General Government assumed the pension list of each State, placing all the pensions granted for Revolutionary services on the same ground; and this policy, if the bill is to pass, ought now to be followed—that is, to place all having equal merit on the same ground.

The recommendation of this subject to the consideration of Congress by the President, who was a Revolutionary character, had been mentioned. This recommendation, like every other from the Executive, he felt it his duty to examine with deliberation, and treat with respect; he had, however, to regret that he could not agree to pass an act in conformity to it; the reasons for this he had endeavored to state; his regret, however, would be much greater, if all the preceding Presidents had not also have been Revolutionary characters; and he did not recollect at this time that any one of them had made a similar recommendation, though he had not examined their Messages to ascertain the fact, he spoke only from a momentary recollection of a memory not now very good; if the fact was, as he believed, no one could doubt but that one of them, General WASHINGTON, was as much attached to the Army as any man in the nation. He had thought proper to say this much to enable all to decide whether the national opinion was tending towards pensions or not.

As much had been said about our rich Treasury, and but few to provide for, he thought proper to state that neither of these facts had any weight with him; if justice required that the bill should pass, neither the condition of the Treasury nor the number to be provided for ought to be taken into consideration. As to the Treasury being rich, it had been more so some years past, but was emptied without the aid of such a bill as this.

He hoped the gentleman from New York would pardon him for saying, that, whether the national opinion was changing or not, he thought the vote on this motion, and that for passing the bill, would prove that the gentleman and himself were both a little out of fashion. He, however, believed that they would bear it as it became them, without grieving or complaining; each generation would govern itself, and they had had their day.

On the exertions of the Whigs in the Southern States, after the fall of Charleston and the sufferings of the people, he could, he was sure, speak a month, and not exhaust the subject. He had, however tired himself, and, he feared, fatigued the Senate. He would, therefore, take his seat.

MONDAY, February 2.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with a resolution of the Senate of the 8th of last month, requesting me to cause to be laid before it, the proceedings which may have been had under "An act, entitled 'An act for the gradual increase of the Navy of the United States,'" specifying the number of ships put on the stocks, and of what class; the quantity of materials procured for ship building, and also the sums of money which may have been paid out of the fund created by said act, and for what objects; and likewise, the contracts, which may have been entered into, in execution of the act aforesaid, on which moneys may not yet have been advanced; I now transmit a report of the Secretary of the Navy, accompanied by a report from the Board of Commissioners of the Navy, with documents which contain the information desired.

JAMES MONROE.

The Message and accompanying reports and documents were read.

THURSDAY, February 3.

Surviving Officers of the Revolution.

Agreeably to the special order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army,"

together with the amendments reported thereto by the Committee on Military Affairs; and the question recurring on the motion to postpone the further consideration of the bill until the first Monday in July next—

Mr. GOLDSBOROUGH addressed the Chair as follows:

Mr. President, as it appeared to be the disposition of the Senate, when this subject was under discussion some days past, to go into the merits of the bill now before you, upon the question of postponement, submitted by the honorable gentleman from Virginia, I must conform to that wish, although I had much rather that the discussion could have been deferred until the bill had been so modelled as to have approached more nearly to the wishes of all.

I hope the motion for a postponement of this bill to a day beyond the session will not be carried, as I consider it a high and solemn duty incumbent upon us to make some remuneration to the worthy and indigent men who are now presented to our attention. The feelings of all who have delivered their opinions upon this subject seem to be in accordance with the object of this bill; but difficulties arise on every side that appear to be insurmountable, the greatest of which is, to what class of men we shall direct our benevolence. The merits of all have been exhibited to view, and we are told, if we discriminate we shall do injustice; and if we include all, that the finances of the country will be exhausted in the undertaking. It is not my purpose, sir, to detract from the merits of any; but surely, Mr. President, if there is any one definite class of men more meritorious than another; if there are any men in this country, who, by their services and sufferings, have rendered themselves most dear to our recollections, and most worthy of our gratitude, they are the officers and soldiers of the Revolutionary Army. If they are infirm, we ought to sustain them; if they are indigent, we ought first to help them.

The objections which have been offered to the question now before us are formidable, from their number and variety. It will be proper for me in the first place to examine these objections, not with the arrogant pretension of effectually doing them away, but of endeavoring to place them in such a point of view as in some degree to impair their force, and to render them less imposing than they have been considered.

It is objected, that the Revolutionary officers and soldiers have no claim against the Government; that all that was ever promised them has been given, and all that was ever stipulated has been complied with. It is not pretended by any of the advocates of this measure that these men have any strict claim in law, but the expectation is most ardently and sincerely entertained that a case can be made out that will authorize (and we hope induce) a grateful country to make them the objects of generous munificence.

By various resolutions of the old Congress, certain officers of the Revolutionary Army were to be placed on half-pay for life. This half-pay was afterwards commuted for five years' full-pay. From whom the proposition of commutation came, is a disputed point; and as I do not know that it has any material bearing upon this question, I will forbear to inquire into it. The origin of the commutation is to be traced to those murmurings and discontents which were exhibited in many parts of the country against the half-pay establishment; and those who were to receive it, notwithstanding the pledges of devotion to their country which they had given in the field, were met with the opprobrious epithets of *hireling*, *mercenary*, and *pensioner!* It is to the prejudice which existed everywhere amongst us, against the country from which we had been separated, and against every establishment similar to hers, that we are to look for the cause of this sensation. It is allowable to call it a prejudice, sir; for, what we term a prejudice now, was a virtue then. The superior officers in the Army, who were the oldest, first agreed to this commutation. At their time of life, the bargain was a pretty good one, if they had been paid in good money; but not so with the young officers, who constituted by far the greater portion. Yet these, under the influence of their superior officers, to whom, from habits of discipline and long-tried confidence, they had ever looked with a veneration that knew no change, and with an affection that found no limit, at length consented, and accepted the commutation. It seemed to be the last chance—the only hope. No sooner had they accepted the terms, and received the final settlement certificate, as the evidence of the debt due them from the Government, than their necessities forced them into the hands of the remorseless speculator, and they sold the reward of their toils—some for eighteen pence, some for two shillings, and some (more fortunate than the rest) for half a crown in the pound.

A captain's pay is always taken as a fair average in the Army, on which to found calculation. The pay of a captain was forty dollars a month—four hundred and eighty dollars a year. The commutation of five years' full-pay would amount to twenty-four hundred dollars. There was due at the time of disbanding the Army about two years' and a half pay, or fifty per cent. upon the amount of commutation. This added to the commutation would be twelve hundred dollars more; making in all thirty-six hundred dollars. A final settlement for thirty-six hundred dollars, with a captain, sold by him then at two-and-sixpence in the pound, or thirty-three and a third cents in the two dollars, and sixty-six and two-thirds of a cent, would give him about four hundred and fifty dollars—a sum less than the pay for one year for his whole commutation and arrearages. If it is remarked that the act of selling was his own, I reply, that it was his necessity, and not his will, consented—

a necessity produced by the incapacity of the country to pay him in money of value.

The certificate of final settlement for thirty-six hundred dollars purported upon its face to bear an interest of six per cent. until paid. It was passed in 1783. Six years afterwards, Congress, unable to pay off these claims, had recourse to the plan of funding them, and instead of paying the six years' six per cent. interest upon the certificate of thirty-six hundred dollars, (which would have been twelve hundred and ninety-six dollars,) they converted that interest into a stock bearing three per cent. interest. Thus, by the very act of conversion, saving to the Government and taking from the captain half the amount of his interest, (equal to six hundred and forty-eight dollars;) for, if any interest was due, it was six per cent. Again: The amount of principal, being thirty-six hundred dollars, was also converted into a stock bearing six per cent. interest, two-thirds of which was to bear a present interest of six per cent. and the interest upon the remaining third was deferred for ten years, saving again to the Government the interest of six per cent. upon twelve hundred dollars for ten years, which is equal to seven hundred and twenty dollars; thus, the Government saved to itself, out of the money due a captain, by the mode of payment which it adopted, six hundred and forty-eight dollars of the interest due him, and seven hundred and twenty dollars by withholding the interest upon one-third of his principal for ten years, making, in the whole, the sum of thirteen hundred and sixty-eight dollars. Instead, then, of paying the captain the amount of principal and interest due him by the evidence of his certificate from under the hand of the Government, their necessities compelled them to have recourse to a system of payment to which the creditor was not a party, that saved to the Government the sum of thirteen hundred and sixty-eight dollars, and took it from him to whom it was justly due. I do not pretend to say, sir, that this constitutes a debt at this time of day, according to, and recoverable by law; but to my mind it creates an obligation to make some remuneration, against which neither time nor circumstances can avail.

I know full well, Mr. President, that it was the depressed condition of the finances of the country at that time, that produced this calamitous state of things. I am aware of it, and I regret it. The condition of the nation, then, was that of an unfortunate debtor, who had stopped payment with a prospect of more ample resources at a future day, and called upon her creditors, who were her benefactors, and made the most equitable and fair composition with them that she could. It is now, sir, when this debtor, our country, is opulent, and powerful, and prosperous, that we desire her to do, what every honorable member in this Senate, I am persuaded, would do in his own private capacity, I mean to remunerate those who had sustained losses in consequence of her former disability to discharge her just debts.

Other objections to this bill are derived from the various classes of men who served and suffered in the Revolution. We are told of those who served in the councils of the country at that time—of those who suffered from the ravages of the enemy, and from the destructive neighborhood wars, which existed in some of the States, in consequence of a difference of sentiment—and lastly, of the militia. And, as a strengthener to all, we are told, that the States individually have done much for the officers and soldiers of the Revolution. Mr. President, towards those illustrious men who filled the councils of this country, during the great Revolutionary struggle, I can feel nothing but the most exalted reverence, and respect, and admiration. It was to their steady perseverance and unshaken fortitude, that we owe the success of that contest which gave independence to this country. Their wisdom, their constancy, and their fidelity, will ever be remembered. But what they planned in council, your army sustained in the field. If they toiled and watched over your destinies, they had some periods of time that they could devote to their families and their private concerns—they had it in their power to pay some attention to domestic cares—and, in the midst of their faithful labors, their health was taken care of; they were plentifully fed, and comfortably lodged at night. Not so with your army: half-starved, half-naked, tracked on their course by the blood from their unshod feet, they followed their Heaven-directed leader with heroic constancy and courage—defying the elements—exposed to every vicissitude of season and of weather—bearing up against the multiplied calamities of the most ill-provided warfare, they sunk from their toils to catch a moment of repose upon the frozen field, uncovered, except by the skies. Sir, there is no comparison between the sufferings of these men; and as little between their present condition, arising from the difference of that service.

Whatever may have been the misfortunes of those who were injured by the fury of the enemy, or of their neighborhood wars, it is impossible at this time of day to estimate. The case is remediless with all its horrors. We have seen the difficulty, for some years past, of providing for the destruction committed in the late war. Two years have been consumed in establishing the principles which shall govern in those cases, and yet every day a memorial is laid upon our table, asking redress for cases not included in the law. If such difficulties are felt on account of losses of such recent date, how can we hope to redress those where time has swallowed up both the parties and the evidence; and gentlemen must excuse me, sir, for saying, that I do not consider it altogether fair to introduce an impracticable case against us, and then deny that we ought to do that which is feasi-

ble, because we don't do that which is impossible.

As for the militia, sir, their services were often useful, often admirable—but their employment was very different from that of the Continental army. The militia were generally employed for short periods, and not taken far from home; their services were mostly performed in defence of their own neighborhood, and their fatigues and exposure were comparatively small when contrasted with that of the regular army. As to the rewards which the States have benevolently bestowed upon such of the officers and soldiers as were within their respective limits, it does them much honor, but we cannot shelter ourselves under the charity of others. It was for the nation at large that these men fought and bled; it was for the country they encountered all their hardships, and it is from the national Treasury they ought to be reimbursed.

But the greatest objection of all, is the supposed exorbitancy of the sum necessary for the object. This is the point at which I fear we shall falter. Perhaps a little examination into this point may diminish the obstacles that our alarms have created. There is no certain evidence to which we can have recourse at this time to ascertain, with exactness, the number of surviving officers and soldiers of the Continental army. Various calculations have been made by those who may be supposed to have the most accurate means of information, and these have proved unsatisfactory. The only document we can find upon the subject, is the number of men discharged at the time the army was disbanded, which was about thirteen thousand five hundred—if to this is added one-fourth of that amount, to include those who have been discharged after one, two, or three years' service, we shall have in the whole the number of 16,875 men. A better computation can be made of the officers, who are more known in the community, and who are generally recorded in the society of the Cincinnati. They are estimated at rather more than two hundred survivors, being one-tenth of the whole. If we calculate the men by this mode, and it will be an extravagant calculation—for in all the estimates of human life the most precarious hold, the greatest mortality, is always found to be among that class of men who, from their condition, are most exposed, least attended to, and most destitute of essential comforts. If, I remark, we adopt this mode of calculation, we shall have 1,614 survivors of the non-commissioned officers and privates of the Continental army—a number, one-third if not one-half exceeding what any intelligent Revolutionary officer now alive believes to be the true one. Taking then the estimate, at this large calculation, of two hundred officers and sixteen hundred and eighty-seven privates, the whole amount of half-pay per annum to each, (estimating a captain's half-pay as the measure of that of the officers,) would not exceed one hundred and fifteen thousand four hundred and eighty dollars, a sum inconsiderable in itself when compared with the object, and a sum that will diminish in an accelerated ratio every year, until, in ten years from this, there will not be a tenth remaining to be paid. If there is an error in this statement, it unquestionably is by making the estimate too large, and when we come to reflect upon the object to be accomplished, and the means necessary for the purpose, I trust that we shall neither feel hesitation nor reluctance.

FRIDAY, February 13.

Surviving Revolutionary Soldiers.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army," together with the amendments reported thereto by the Committee on Military Affairs; and the question recurring on the motion, that the further consideration thereof be postponed until the first Monday in July next, it was determined in the negative—yeas 3, nays 30, as follows:

YEAS.—Messrs. Barbour, Macon, and Smith.

NAYS.—Messrs. Ashmun, Burrill, Campbell, Crittenden, Daggett, Dickerson, Eppes, Fromentin, Gaillard, Goldsborough, Hunter, King, Lacock, Leake, Morril, Morrow, Noble, Otis, Ruggles, Sanford, Stokes, Storer, Tait, Talbot, Taylor, Troup, Van Dyke, Williams of Massachusetts, Williams of Tennessee, and Wilson.

MONDAY, February 16.

Encouragement to Emigrants.

Mr. SANFORD presented the memorial of the New York Irish Emigrant Association, praying that a portion of unsold lands (in the Illinois Territory) may be set apart, or granted to trustees, for the purpose of being settled by emigrants from Ireland, on an extended term of credit, as stated in the memorial; which was read, and referred to the Committee on Public Lands.

The memorial is as follows:

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled.

The memorial of the New York Irish Emigrant Association respectfully showeth: That your memorialists, while they presume most respectfully to solicit your attention to the helpless and suffering condition of the numerous foreigners who, flying from a complicated mass of want and misery, daily seek an asylum in the bosom of the United States, are emboldened by the recollection that a liberal encouragement to the settlement of meritorious strangers has always characterized the Government and constituted authorities of the Union. The wise and brave founders of its independence held out to the oppressed and suffering of every nation the consoling assurance, that in this country, at least, they should find a refuge and a home. The successors of these illustrious men have continued to redeem, in calmer and happier times, the

pledge made to philosophy and benevolence amidst perilous scenes of distress and difficulty. From this humane and beneficent policy America has reaped a rich and happy harvest. She has added to the national resources the moral and physical strength to be derived from so many thousands and tens of thousands, who, actuated by attachment to her free constitution, have adopted the nation where liberty has made, and is making, her most glorious stand, as the country of their choice.

Your memorialists, in addressing your honorable body, need not seek to enforce by argument the generally received maxim of political economy, that the wealth and solidity of a nation consist in the number, the social comforts, and the productive industry of its people. In the dense and crowded States, and under the existing Governments of Europe, these sources of wealth and stability are not always found well combined. It frequently does not happen that the social comforts, or even the productive industry, are proportioned to the number of the people. In the extended territory and scattered population of the United States, however, and under their free and blessed institutions, it is an unquestionable and important truth, that every increase of inhabitants, when wisely and judiciously distributed and settled, adds to the social comforts and productive industry of the whole, and that the excess of population, which cannot be considered as giving stability to the various Governments of Europe, if suffered or encouraged to settle here, would incalculably increase our wealth and strength. But that accession is doubly valuable which also brings to the common fund, with a mass of laborious industry, unalterable attachment to the laws and constitution of the country. And, surely, to give a wise direction to that industry, and to secure by well-placed kindness that attachment, are among the noblest exercises of legislative authority.

Your memorialists beg leave respectfully to represent that at no period since the establishment of American independence have the people of Europe, particularly the laboring classes, discovered so great a disposition as at present to emigrate to the United States. But the people of Ireland, from the peculiar pressures under which that country has so long been placed, have flocked thither in the greatest number, and perhaps under the most trying and necessitous circumstances. They come, indeed, not to return and carry back the profits of casual speculations, but to dedicate to the land of their hopes their persons, their families, their posterity, their affections, their all.

It is, however, a truth, regretted by those who have the best means of observation, that, for want of guides to their steps, and congenial homes, where all their honest energies might be called at once into activity, and their hardy enterprise turned to their own advantage, as well as to the general good, they remain perplexed, undecided, and dismayed, by the novelty and difficulty of their situations. They have fled from want and oppression— they touch the soil of freedom and abundance; but the manna of the wilderness melts in their sight. Before they can taste the fruits of happy industry, the tempter too often presents to their lips the cup that turns man to brute, and the very energies which would have made the fields to blossom make the cities groan. Individual benevolence cannot reach this evil. Individuals may indeed solicit, but it belongs to the chosen guardians of the public weal to administer the cure. Nor is the misdirection or the destruction of the capabilities and industry of these emigrants to be regretted only on its own account. The story of their blessed hopes and fortunes is transmitted back, and retailed with malicious exaggeration. Others, possessing more abundant means and more prudent habits, who have been accustomed to look with longing eyes to this free country, and contrast its happiness with the present state of Europe, are discouraged and deterred by their sufferings and misfortunes; and thus a large current of active population and wealth, inclined to flow into and enrich the United States, is dammed up at the fountain-head. A serious consideration of these circumstances induce your memorialists to hope, and most earnestly but respectfully to request, on behalf of those whose interests they urge, that a portion of unsold lands may be set apart or granted to trustees, for the purpose of being settled by emigrants from Ireland, on an extended term of credit. The conditions of this grant your memorialists wish to be such as may give to the settlers its entire benefit, and may exclude all private speculation in others. They also beg leave to suggest, after contemplating the various uncultivated tracts which invite the labor of man, that a situation adapted for a settlement of that description might be found among the lands lately purchased in the Illinois Territory.

Your memorialists are fully sensible that many of the most persuasive arguments in favor of their application must be addressed, and will not be addressed in vain, to the benevolence and sympathies of the Legislature; but they also confidently appeal to its wisdom and patriotism. The lands to which they have alluded, being frontier and remote, are neither likely to be speedily exposed to sale, to be rendered by cultivation subservient to the general prosperity, nor by settlement conducive to the general strength. The portion which might be granted on extended credit would probably be paid for almost as soon as if it had not been brought into the market before its regular turn. During that time, in which it would otherwise remain unproductive, (and therefore unprofitable,) thousands of families would have acquired opulence, would have benefited the country by its cultivation, by the establishing of schools, the opening of roads, and the other improvements of social and civilized life. They would form a nucleus round which a more abundant population would rapidly accumulate, and all the contiguous lands would be largely increased in value. The small loss which might appear to be sustained by the suspension of interest on the credit (if it should have any existence) will be abundantly compensated by the money and labor that must be almost immediately expended on works of general utility, which the convenience and necessities of the settlers will naturally induce them to accomplish. But who can calculate the physical or moral, or even the pecuniary advantages in time of war, of having such a strong and embattled frontier?

The Irish emigant, cherished and protected by the Government of the United States, will find his attachment to their interest increase in proportion to the benefits he has received. He will love with enthusiasm the country that affords him the means of honorable and successful enterprise, and permits him to enjoy unmolested and undiminished the fruits of his honest industry. Ingratitude is not the vice of Irishmen. Fully appreciating his comparative comforts, and the source from whence they flow, he will himself cherish, and will inculcate on his children, an unalterable devotion to his adopted and their native

country. Should hostilities approach her in that quarter, whether in the savage forms of the tomahawk and scalping-knife, or with the deadlier weapon of civilized warfare, the Irish settlers, with their hardy sons, will promptly repel the invasion, drive back the war upon the enemy, and give to our extended frontier security and repose.

Your memorialists therefore humbly pray your honorable body to receive and listen favorably to their application. And, as in duty bound, they will ever pray, &c.

On behalf of the New York Irish Emigrant Association:

NEW YORK, *December*, 1817.

THOS. ADDIS EMMET, *President.*
DANIEL McCORMICK, *Vice President.*
JAMES McBRIDE, 2*d Vice President.*
ANDREW HERRIS, *Treasurer.*
JOHN W. MULLIGAN, *Secretary.*
WILLIAM SAMPSON, *Secretary.*

Wm J. Macnevan,	James Sterling,
Mat. L. Davis,	Wm. Edgar, jr.,
J. Chambers,	Matthew Carroll,
Thomas Kirk,	John Mayhue,
D. H. Doyle,	John Heffernan,
John R. Skidds,	Dennis McCarthy,
Robert Fox,	James R. Mullany.
R. Swanton.	

TUESDAY, February 17.

Great Britain—Extra Dues.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives:

I lay before the House of Representative copies of two communications received at the Department of State from the Minister of Great Britain, and submit to their consideration the propriety of making such legislative provisions as may be necessary for a compliance with the representations contained in them.

By the express terms of that compact it was, when ratified by the two Governments, to be in force for the term of four years *from the day of its signature*. The revocation of all the discriminating duties became, therefore, the obligation of both Governments *from that day*, and it is conceived that every individual who has been required to pay, and who has paid, any of the extra dutics revoked by the Convention, has a just and lawful claim upon the respective Governments for its return. From various accidents it has happened that, both here and in Great Britain, the cessation of the extra duties has been fixed to commence at different times. It is desirable that Congress shall pass an act, providing for the return of *all* the extra duties, *incompatible with the terms of the Convention*, which have been levied upon British vessels or merchandise, after the 3d of July, 1815. The British Parliament have already set the example of fixing that day for the cessation of the extra duties of export, by their act of. 30th June last, and the Minister of the United States in London is instructed to require the extension of the same principle to *all* the extra duties levied on vessels and merchandise of the United States in the ports of Great Britain since that day. It is not doubted that the British Government will comply with this requisition, and that the act suggested may be passed by Congress, with full confidence that the reciprocal measure will receive the sanction of the British Parliament.

JAMES MONROE.

WASHINGTON, *Feb.* 12, 1818.

THURSDAY, February 19.

DANIEL D. TOMPKINS, Vice President of the United States and President of the Senate, attended, and took the Chair.

THURSDAY, February 26.

HENRY JOHNSON, appointed a Senator by the Legislature of the State of Louisiana, to supply the vacancy occasioned by the death of the late William Charles Cole Claiborne, produced his credentials, was qualified, and took his seat in the Senate.

Surviving Revolutionary Soldiers.

The Senate resumed the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army."

The bill having been further amended, on the question, "Shall the amendments be engrossed, and the bill be read a third time, as amended?" it was determined in the affirmative—yeas 23, nays 8, as follows:

YEAS.—Messrs. Burrill, Crittenden, Daggett, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Morrill, Otis, Ruggles, Stokes, Storer, Tait, Talbot, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS.—Messrs. Barbour, Dickerson, Lacock, Macon, Morrow, Roberts, Smith, and Taylor.

MONDAY, March 2.

Fugitive Slaves.

Agreeably to the special order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill respecting the transportation of persons of color for sale, or to be held to labor, and the bill having been amended, the PRESIDENT reported it to the House accordingly; and on the question to agree to the amendment made, as in Committee of the Whole, to strike out the 6th section of the bill, amended as follows:

"SEC. 6. *And be it further enacted*, That no person shall transport or convey by land, from one State to another, or from one State or Territory to another, any negroes, mulattoes, or persons of color, for the purpose of sale, without first recording the name, age, sex, color, and stature of every such negro, mulatto, or person of color in the office of the court of the county where such negro, mulatto, or person of color last resided, together with his own name and place of residence. And any person who shall attempt, or be engaged in the transportation or conveyance by land of any negro, mulatto, or person of color, as aforesaid, without first making the record as aforesaid, a copy of which, under seal and duly attested by the clerk of the court in which such record is made, shall be the only evidence, shall forfeit and pay one thousand dollars for each and every negro, mulatto, or person of color thus attempted to be transported or conveyed by land, one moiety thereof to the use of the United States, the other to any

person or persons who shall sue for, and prosecute the same to effect, in any court of the United States having jurisdiction thereof."

It was determined in the affirmative—yeas 23, nays 6, as follows:

YEAS.—Messrs. Barbour, Crittenden, Eppes, Fromentin, Gaillard, Hunter, Johnson, King, Leake, Macon, Morrill, Otis, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS.—Messrs. Burrill, Goldsborough, Horsey, Noble, Roberts, and Ruggles.

On motion by Mr. TALBOT, the further consideration of the bill was postponed until Friday.

FRIDAY, March 6.

Fugitive Slaves.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory."

Mr. SMITH, of South Carolina, said, when this subject was first brought before the Senate, he had determined to take no part in the debate. But, as it had assumed such a complexion, both as it respects the constitutionality of the provisions of the bill itself, and the subject-matter upon which it is founded, as well as the severity of the remarks used by gentlemen opposed to its passage, he considered it his duty to make some reply. The gentleman from Rhode Island (Mr. BURRILL) insists that the privilege of the writ of habeas corpus, secured by the ninth section of the first article of the constitution, will be infringed by this bill, because a person of color taken under it cannot have the right to his freedom tried by the judge before whom the return of the writ of habeas corpus is made. Mr. S. said he pretended to no law knowledge beyond that of other gentlemen, yet he did most unequivocally deny the construction of the constitution as given by that gentleman. The writ of habeas corpus was never intended to give a right of trial. It merely gives the right to the person confined to demand an inquiry whether he is held in custody upon a ground warranted by law; and if the judge before whom he is brought finds he is detained by legal authority and upon legal grounds, he cannot discharge him, but is obliged to remand him. If the authority by which he is held appears to be legal, it is perfectly immaterial whether the cause is a just one or not. And when a fugitive from labor has been taken under this law, the cause of his detention will be fully set forth in the certificate by the judge before whom he is to be taken, whose duty it is specially made to do so. Then can it be pretended, after you pass a law prescribing expressly under what proofs a fugitive shall be taken, and that the fugitive shall be specially described by the judge in the order he is to give for his removal, and that the proofs have been satisfactorily made before him the person therein described is a fugitive slave, and belongs to the person who holds him in custody, that another judge has a right to question all this, and take upon himself alone to try his right to freedom, and discharge him? It is impossible. The writ of habeas corpus was never intended to give any such right.

This would give a judge the sole power of deciding the right of property the master claims in his slave, instead of trying that right by a jury, as prescribed by the constitution. He would be judge of matters of law and matters of fact; clothed with all the powers of a jury as well as the powers of a court. Such a principle is unknown in your system of jurisprudence. Your constitution has forbid it. It preserves the right of trial by jury in all cases where the value in controversy exceeds twenty dollars. The gentleman has said, if this bill should pass it will enable the Southern planters to take and carry away, not only their own fugitive slaves, but any other person of color, whether he be a free man or a slave. It would enable them to carry off a free white man, and even one of the members of this Senate. Sir, the gentleman from Rhode Island may consider himself as perfectly safe from any such hazard; for, however much we may respect our Northern friends as gentlemen, as lawyers, and as statesmen, we should have no sort of use for them in our cotton fields. Nor should we admire their political instructions to our slaves if they should carry with them their present impressions.

The honorable gentleman has spoken of the practice of the Southern people in kidnapping their free negroes, and calls them man-stealers. And the gentleman from Pennsylvania (Mr. ROBERTS) has called them *kidnappers*, *men-stealers*, and *soul drivers;* and he asks, in a very emphatic manner, who drew this bill, and upon what authority? Or if it was brought in upon the application of any of the abolition societies? And then he answers these questions himself, and says it was not, but that it had been drawn by a cunning lawyer, and was supported by lawyers. Sir, this language does not comport with the moderation which that gentlemen expressed a desire should prevail in this discussion when he addressed the Senate on the subject early in this debate. Is this the language we are to meet when we are suing for our constitutional rights? The Constitution of the United States has guaranteed to the master a right to pursue his fugitive slave, and has enjoined upon the State to which he shall fly to deliver him up. It has not left it optional with the State to which he flies, but has made it imperative that he *shall* be delivered up. And has it come to this, that we must wait for the permission of the abolition societies before a law can be offered to secure the recovery of just rights? This was not more novel than strange.

Mr. S. said, it had been a practice in monarchical governments to discredit lawyers, where they had often been foremost in checking a high-handed tyranny; but he had not expected to hear it practised in the Senate of the United States. The lawyers of this country had nothing to fear upon an investigation of their general character. They had been wanting in no public duty. During the Revolutionary war, as well as the late war, many of them had displayed as much gallantry in the field, and as much ability in the councils, as any men in the nation, whilst these abolition societies were in ease and security at home, following their domestic pursuits, and leaving it to others to fight their battles. Mr. S. said he was sorry to make these remarks, but they were just, and were forced from him. He admired the moderation and virtue of these people; he thought them worthy of imitation in many respects, but he did not admire their constant efforts to alienate the affections of the people of color from their masters, with whom they lived happy, and by whom they were better provided for than the peasantry of any other country upon earth; or, indeed, in some portions of this country, if the facts given by their writers be correct. Mr. Melish, of Philadelphia, in an essay published only a few days ago, states, that there are in the city and county of Philadelphia at least fifteen thousand people, all able and willing to work, who are either idle or occupied in unproductive labor, and says, that melancholy picture pervades the country throughout. This place is the very centre of emancipation; and if unable to furnish employment for their own population, is there any reason why they should add to this picture of growing distress, by an accumulation of free negroes?

Notwithstanding all that has been said by our northern brethren against us for keeping slaves, they employ their free blacks in all their drudgery, and obtain their labor on better terms than masters do. And although it does not apply to that body generally, yet it is a fact, susceptible of proof, that some who profess to promote this principle of abolition, have seduced the slaves from the neighboring States under promises to secure their emancipation, instead of which they put them to work, and treat them with so much more severity and injustice than their masters, that the slaves either made it known where they were, or run away from these new tyrants and went back to their former state of slavery, as a better and more desirable condition.

With all this boast about freedom and emancipation, there are only four States that have no slaves. Even the magnificent State of Pennsylvania is a slaveholding State; so is the State of Rhode Island. Those which are non-slaveholding States, with the exception of Ohio, have not long since got rid of them. Rhode Island, New York, and Pennsylvania, previous to taking steps to abolish slavery, furnished the Southern markets with considerable numbers. And the very moment the African trade was opened in South Carolina, in the year 1803, these very States furnished their full proportion of shipping to carry it on. Even our friends in Boston, and other New England States, were willing to help with their shipping; besides, it furnished a market for their surplus rum. So we perceive, whenever interest is concerned, and a little profit is to be made, all this delicacy about slavery is laid aside.

Whilst it was their interest to hold slaves, so long they kept them. Whenever the interest coupled with it ceased, slavery ceased, but not before. After the war, trade revived, especially in the Eastern States; it was found that a negro capital must give way to a commercial capital; which was infinitely more profitable. So it is now with banking capital. Even in the States where slavery exists to the greatest extent, we find many selling off their negroes and vesting the proceeds in bank stock; and especially those who live in the towns and cities. This capital, being so much more profitable than the other, it is constantly increasing. And there are no persons more apt to remonstrate against that crying sin slavery, than such as have just sold off their stock of negroes, and vested the price in bank stock. Slavery, then, becomes very odious. They wish to see it abolished—they do not like to see this traffic in human flesh. But it is because they have got its precious price in a stock that will yield them a three or four-fold profit; not till then can they see its enormity. It is a very convenient thing to be receiving a large profit upon his stock, which is going on under the fostering hand of bank directors, whilst the owner is asleep or taking his pleasure. We have lately seen it published, that some banks have divided as much as thirty per cent. upon their capital, whilst the most successful planter will not receive more than ten, and, very many years, not half that amount. This banking system is what will form the groundwork for overthrowing this species of property, by gradually diminishing the number of its holders, and increasing the bank stock influence. Look how slavery has diminished in the public estimation, as the other system has grown. The States which have taken measures to abolish slavery, have become perfectly bank mad. New York has abolished slavery after ten years, and she is convulsed with banks, and not yet satisfied. There was a late attempt to establish one with a capital of six millions, but it was checked by the Executive. The State of Pennsylvania, already abounding in banks, incorporated forty-seven by one law—they climbed over the Executive veto to do so; two-thirds of the Senate, and about three-fourths of the House of Representatives supporting it. Many of these banks, without a farthing of capital, drawing a large income from the hard earnings of the honest and unwary part of the community, and absolutely refusing to redeem their paper, without one compunction for the misery and ruin it brings with it. When these very frauds were

practising to an enormous degree, without a murmur, except from those who were sinking under it, the feelings of that country were bleeding for the supposed distress of the slaves of the South.

The famous article in the Treaty of Ghent, by which we have guaranteed to England our co-operation in abolishing the African slave trade, is worth notice. Our Commissioners, friendly to banks and opposed to slavery, had no instructions to enter into any such stipulation. Great Britain had not long before abolished that trade; and our Government had done so forty years before, by an ordinance of the First Congress, in 1774, and which had been rendered more complete by a law of 1807. It was totally unconnected with the subject of negotiation. We were at war upon other grounds entirely. Not even a question of commerce had ever arisen between the two nations upon it; yet it found its way, an isolated article, into a Treaty of Peace!

The Colonizing Society is another step in this grand scheme. This society intends to send the free negroes, and other persons of color, into the wilds of Africa; by which they are to be torn from the land of their nativity, and every thing to which they are attached by friendship and habit, and the advantages of civilized life, and left to sink again into all the miserable barbarity of their ancestors. But it is said it will pave the way to a general emancipation.

We do by no means suppose that any honorable member of Congress would think of such a thing as a general emancipation; because, independently of interfering with private rights, they know too well that such a measure could not take place without involving the whole of the United States in an awful situation. But, that a general emancipation is intended there can be no doubt, by the Eastern and Northern States, if they can find means to effect it. The abolition societies are avowedly for it; what else can the very name itself indicate? Although their numerous petitions, now before Congress, purport to extend no further than to prevent kidnapping, yet, look at the language of the petitions. If they had applied directly for emancipation, they could not speak plainer. Connected with these petitions, now in the possession and under the consideration of Congress, is the resolution of the gentleman from Rhode Island, (Mr. BURRILL,) to inquire "into the expediency of the United States taking measures, in concert with other nations, for the entire abolition of said trade." As this resolution had been once before the Senate, and had been referred by a majority to a committee to report with what nations, and under what regulations we should connect ourselves to effect this project, Mr. S. said it would not be out of the way to advert to it, and inquire what hopes we had of a fortunate result. With whom is this Government to connect itself in this desirable work? It would seem that it ought to be with nations whose general policy is favorable to emancipation, and whose subjects enjoy the blessings of civil liberty at home, before we could expect much beneficial aid from their co-operation. We are not to hope for this from Russia, Prussia, and Austria, whose subjects are borne down by the iron hand of tyranny. Their peasantry are bought and sold at home like slaves, and are suffered to be sent to this country and sold in our markets. Nor is it to be hoped for from England, if her policy should dictate to her a different course. She is now riding foremost in this career, because it promises to extend and promote her commercial interest, whilst her millions of paupers at home are dying in garrets, or falling by the wayside, and if they assemble, to raise their cry to their rulers for bread, the riot act is read, and then the military is ordered to fire on them. Three of these nations, assisted by the ships of the other, have spread their sceptre over the destinies of Europe, and formed a holy league against its dawning liberties. These are the nations with whom you are to associate to abolish slavery. It is not to be wondered at, under all this influence, with a total want of knowledge of the comfortable condition of the slaves, that our northern neighbors should feel unfavorable to slavery. But most of the northern gentlemen, when they remove to the southward, and when they can see and judge for themselves, have no hesitation in buying slaves. General Greene, to whom the State of Georgia gave a plantation that cost five thousand guineas, and South Carolina ten thousand pounds sterling, for his services during the Revolutionary war, had no hesitation in purchasing a large gang of negroes to cultivate this plantation, notwithstanding he had been raised to the northward, and had been brought up a Quaker.

But, there is another perpetual source of misrepresentation, which serves to place it in an odious light to straugers: it is the number of catch-penny prints and pamphlets that are published by persons who know no more of the condition of the slaves than they do of the man in the moon. Go to a bookstore, and you meet prints hung up in some conspicuous place, in large capital letters, "Portraiture of Domestic Slavery," published in Philadelphia; or the "Horrors of Slavery," published in Cambridge, and sold in Boston. These pamphlets contain all the extraordinary cases collected on the high seas, in the West Indies, or United States, together with such inflammatory speeches of travellers, who have no other means of giving to their writings interests, than by dealing in the marvellous; or of fanatic preachers, or speeches in the British Parliament, calculated to inflame without being able to instruct, and suited more to promote a particular policy than to promote the rights of humanity.

At the time the memorials of the several abolition societies were presented to the Senate, some unknown hand had laid on the desk of each Senator a pamphlet entitled "The Horrors of Slavery, in two parts, by John Kenrick; sold

in Boston, price twenty cents." This twenty-cent pamphlet gives many horrible pictures of slavery; and no doubt the author knew this great moving cause, the *twenty cents*, would multiply in proportion to the extravagance of his descriptions. This twenty-cent pamphleteer, amongst his other good offices, has pointed out Louisiana as a very fit place to colonize all the slaves, after they are emancipated, (which he seems to think a certain event,) and takes care not to lose sight of the fine market it would afford for their manufactures. Mr. S. said, if an emancipation should take place he would rather see them settled in the Northern States among their friends, where they could be better superintended. The people of the Southern States would by no means thank Mr. Kenrick for such neighbors; and more especially if they are to be educated like the free negroes in the Northern and Eastern States, if the account given by the gentleman from Connecticut (Mr. DAGGETT) be correct, of which we have no doubt. He says they have fifty white inhabitants for one black, and that there are three public crimes committed by the blacks where there is one committed by a white person. This will make the proportion one hundred and fifty to one. And, if we are to judge from the registers of their penitentiaries, we should believe they have their full share of crimes, even amongst their whites.

This same pamphleteer, after giving us the pious effusions of English travellers, Northern pamphleteers, American map-makers, and British members of Parliament, gives us a pathetic extract from the speech of the late Mr. Pitt, in the British House of Commons, upon the question for abolishing the African slave trade, which, sir, is worth reading. It is in the following words: "The present was not a mere question of feeling. The argument which ought, in his opinion, to determine the committee, was, that the slave trade was unjust. It was therefore such a trade as it was impossible for him to support, unless it could first be proved to him that there were no laws of morality binding on nations, and that it was not the duty of a Legislature to restrain its subjects from invading the happiness of other countries, and from violating the fundamental principles of justice." This, sir, was the language of Mr. Pitt, the celebrated orator and accomplished statesman, who decries the traffic, after his country has filled her colonial possessions with slaves, whilst there was yet an inch of ground for them to cultivate, and to check the growth of the colonies of other rival nations, and under whose policy every nation in Europe has been drenched in blood for twenty years; and who, at the very moment he was remonstrating so strongly against invading the happiness of other countries, and violating the fundamental principles of justice, was planning and carrying on a most cruel and desolating war in the distant regions of Asia—a war, not of defence, but a war purely for conquest—a war carried on by corrupting and exciting rival chiefs, and then holding out terms of friendship to the conqueror, who is made the tool of further treachery, and who falls in his turn, a victim to the same perfidy; until England has reduced under her dominions more than seventy millions of people, who pay them tribute, and have no liberty left, but that of worshipping Juggernaut! At no time since the days of civilization has the happiness of other nations been more disturbed or injustice more practised towards them than during the administration of Mr. Pitt. When the sources of our admonitions shall become more pure, we shall no doubt allow them more weight.

But we are told by these pamphlet writers, that slavery is "a violation of the Divine laws." And the gentleman from New York, (Mr. KING,) in discussing this subject, has told us, "it is contrary to our holy religion." And the gentleman from New Hampshire (Mr. MORRILL) has told us, that in New England, they believe "all men are born equally free and independent;" that "every *human affection* recoils at their bondage." The gentleman has said, "the Bible is our moral guide;" and says it was for dealing "in gold and silver, and precious stones, and pearls, and chariots, and slaves, and souls of men, that produced the downfall of the great Babylon." And he seems to think, that, unless we abolish slavery, we shall provoke the wrath of Heaven, and that we shall go next. The gentleman has forgot one of the great offences of that people; it was for taking of usury. The same Bible which he has adopted for his moral guide says: "Take thou no usury of him, or increase; but fear thy God." This part of the Bible must have become obsolete in New England since the introduction of banks. It must now be pleasing in the sight of Heaven to see a dividend as large as twenty per cent. to each bank share. There are as many chariots, as many pearls, as much gold and silver, perhaps, in New England, as there was in Babylon, at the time of its fall; yet they are in no danger till the vengeance of Heaven has fallen on the slaveholding States first, the gentleman seems to think.

Upon this great question, sir, notwithstanding the opinion of honorable gentlemen to the contrary, there have been some very respectable opinions as to the Divine authority in favor of slavery. We all know that *Ham* sinned against his God and against his father, for which Noah the inspired patriarch cursed Canaan the son of *Ham*, and said, "A servant of servants shall he be unto his brethren." Newton, who was perhaps as great a divine as any in New England, and as profound a scholar, in a book of great celebrity, called his *Prophecies*, in which he endeavors to prove the divinity of the Bible by the many prophecies that are now fulfilling, says that this very African race are the descendants of Canaan, and have been the slaves of many nations, and are still expiating in bondage the curse upon themselves and their progenitors. But it may be said that this is only an *opinion* of Mr. Newton, and that we can see no reason

in it. Mr. S. said, if the gentleman was unwilling to believe Mr. Newton, he would surely believe Moses and the prophets. And if the Senate would indulge him, he would show from the Bible itself, that slavery was permitted by Divine authority; and for that purpose he would open to the xxvth chapter of Leviticus, and read as follows: "And the Lord spake unto Moses in Mount Sinai, saying, Speak unto the children of Israel, and say unto them," &c. 39. "And if thy brother that dwelleth by thee be waxen poor, and be sold unto thee; thou shalt not compel him to serve as a bond-servant: 40. But as an hired servant, and as a sojourner, he shall be with thee, and shall serve thee unto the year of jubilee." 44. "Both thy bond-men and thy bond-maids, which thou shalt have, shall be of the heathen that are round about you: and of them shall ye buy bond-men and bond-maids. 45. Moreover, of the children of the strangers that do sojourn among you, of them shall ye buy, and of their families that are with you, which they begat in your land: and they shall be your possession: 46. And ye shall take them as an inheritance for your children after you, to inherit them for a possession; they shall be your bond-men forever," &c.

This, Mr. President, is the word of God, as given to us in the Holy Bible, delivered by the Lord himself to his chosen servant Moses. It might be hoped this would satisfy the scruples of all who believe in the divinity of the Bible; as the honorable gentleman from New Hampshire certainly does, as he has referred to that sacred volume for his creed. It might satisfy the scruples of Mr. Kenrick, and the divines who appear so shocked at seeing a father dispose of his slaves to his children by his last will and testament, as they will perceive the Scriptures direct them to go as an inheritance. The honorable gentleman says, he speaks not only his own, but the universal sentiments of all those he represents. If he and his friends of New Hampshire have not turned aside after strange gods, it is hoped the authority I have quoted might satisfy them.

The Senate adjourned to Monday morning.

MONDAY, March 9.

Fugitive Slaves.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory."

Mr. MORRILL addressed the Chair as follows:

Mr. President, I think it correct and proper for any gentleman who is not in favor of the bill, to present his objections on the second reading, that its friends may have a fair opportunity to amend it. Under these impressions, I make a motion for a recommitment, that any imperfections may be properly laid before the Senate.

I am not insensible, sir, of the peculiar disadvantages under which I address you on the bill upon your table. I am extremely depressed with an apprehension of unfavorable impressions, which may have been erroneously made, on the minds of honorable gentlemen from the South, in consequence of remarks which fell from me on another occasion, upon a subject not altogether foreign from this. Sentiments which originated in the purest motives, and, in my opinion, in perfect coincidence with the spirit of our constitution; I may, therefore, be allowed this opportunity peremptorily to disclaim any hostility to the provisions of the constitution respecting slavery; or to any law founded upon the principles and in accordance with such provisions. Sir, I wish it to be distinctly understood, that I have no disposition to deprive slaveholders of that species of property; to aid their slaves in escaping; to detain them when they have escaped; or to impede their exertions in recovering them in a constitutional and legal manner, without endangering the rights, or infringing the privileges of free citizens.

I very readily acknowledge, that there are provisions in the constitution which recognize slavery—which I consider a kind of compact by compromise, into which the States mutually entered when they adopted that instrument, about which I have neither a right nor disposition to complain. I hold it, sir, as sacredly binding as any part of this palladium of our rights, and to prevent its due operation is not the wish of my heart; at the same time, I am far from being the advocate or friend of slavery. If I were to be governed by my own personal feelings, independent of any other control, or were I to be guided by my views of the principles of the common law, I should assuredly say, no slavery. But, sir, in my present situation, I deem it my duty to divest myself of all prepossessions and partialities, and, as a legislator, to be directed by the express provisions of the constitution—the glory of our country, and the admiration of the world.

Previous to my adverting to the provisions and details of this bill, it was my intention to make a few observations upon the law now in force upon this subject; the existence of which, in my view, renders the passing of this altogether unnecessary. But, as my remarks have been anticipated by the honorable gentleman from Rhode Island, (Mr. BURRILL,) I shall very consisely observe, that law provides "that when any person held to labor in any of the States or Territories, under the laws thereof, shall escape into any other State or Territory, the person to whom such labor or service may be due, his agent or attorney, is empowered to seize or arrest such fugitive from labor, and to take him or her before any judge of the circuit or district courts of the United States, residing or being within the State, or before any magistrate of a county, city, or town corporate, wherein such seizure or arrest shall be made;

and upon proof, to the satisfaction of such judge or magistrate, either by oral testimony or affidavit, taken before and certified by a magistrate of any such State or Territory, that the person arrested doth, under the laws of the State or Territory from which he or she fled, owe service or labor to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, his agent or attorney, which shall be a sufficient warrant for removing the said fugitive from labor to the State or Territory from which he or she fled."

In this section of the law, sir, I conceive every provision is made for the speedy recovery of fugitive slaves, that gentlemen can rationally expect or reasonably desire. They have nothing more to do than seize the fugitive, and apply, by themselves or agent, to a judge or magistrate, and prove, to his satisfaction, by oral testimony or affidavit, that the person so seized has fled, and does owe labor or service to the claimant, and the judge or magistrate shall issue his certificate, which shall be sufficient for removing such fugitive to the place from which he or she absconded. This is a consise, plain, and easy course. But, sir, permit me now to examine the bill under our immediate consideration.

The provisions and details of this bill, in my humble opinion, are very deficient, imperfect, and improper. The first section provides "that when any person held to labor, &c., shall escape, &c., the person to whom such labor may be due, or his agent, may apply to any judge of the district or circuit court, &c., or to any judge, or two justices of a court of record, of the State or Territory from whence such fugitive shall have escaped; and upon proof to the satisfaction of such judge or magistrates that such fugitive is a slave, &c., and does owe labor to the person claiming him, and shall become bound in a recognizance, &c., to perform certain acts, then, and in that case, it shall be the duty of such judge of the district or circuit court, or such judge or magistrates of the State or Territory from whence such fugitive shall have escaped, to award a certificate, stating the place of abode of such claimant, and setting forth the name, age, and sex of such fugitive. This certificate shall be verified by the signature of the judge or justice awarding the same, and by the certificate of the clerk, under the seal of his court, (if there be a seal,) that the person signing the certificate first mentioned is a judge or justice of the description required by this act." The second section provides "that on producing such certificate as aforesaid, to any judge of the circuit or district court, or judge or justice of a court of record in the State or Territory to which such fugitive shall have escaped, it shall be the duty of such judge or magistrate to grant a warrant, authorizing any marshal, sheriff, sergeant, constable, or public bailiff of the State or Territory last aforesaid, to apprehend such fugitive, and bring him before such judge or justice. And if it shall thereupon appear to the satisfaction of such judge or magistrate, by the oath of one or more credible witnesses, who shall, upon their own knowledge, swear to the identity of such fugitive, (the owner or claimant being, for this purpose, deemed a competent witness,) or by the voluntary confession of such fugitive, that the person so apprehended hath escaped from the State wherein the said certificate was granted, and is the same person named in the said certificate, the said judge or justice shall deliver such person to the owner or his agent, with his certificate thereof, or, at the request of such owner or agent, shall issue his warrant, requiring any marshal, sheriff, sergeant, constable, or public bailiff, of such State or Territory, to take charge of such fugitive, and deliver him to the said claimant, &c., on the confines of the State or Territory last aforesaid;" and, by the same process, he shall be conducted to the place from which he absconded.

The most prominent exception which I shall note in the first section, respects the character of the officers to be employed to take cognizance of a crime, and aid in carrying into effect the provisions of this bill. In this case, it is made the duty of two magistrates to take the testimony, that such fugitive, being very imperfectly described, is a slave, to award a certificate of this fact, to be verified and certified as therein directed. Here, sir, you call upon a State officer, under the State government, to perform a judicial act authorized by a law of the United States. Upon the services of this officer you have no claim; to demand them you have no power. This certificate, which is the foundation of a warrant, is granted without oath or affirmation, on a mere representation of the case.

By the second section, on producing this certificate, you make it the imperative duty of a justice of the peace to grant a warrant, authorizing a sheriff or constable (as he may please) to apprehend such fugitive, as therein imperfectly described, and bring him before such justice for examination. In this instance, you give as much validity to this certificate of a justice, granted in a distant State or Territory, as is given to a judgment obtained by a solemn decision of the Supreme Court of any State in the Union in any other State. In obtaining judgments or judicial decisions in civil actions, you require witnesses upon oath; but here, where the liberty and rights of the citizen may be depending, you require none. Judgments out of the State where they are obtained, are considered no more than *prima facie* evidence of a debt; but in this respect the certificate is made stronger evidence of a fact. Here, contrary to all the ordinary rules in criminal prosecutions, you oblige a justice of the peace to issue his warrant to apprehend a person, without requiring the applicant to give oath or affirmation of the existence of a crime, or of the ground of suspicion. You require him to per-

form a judicial act, which may seriously and very materially affect the rights of the citizen, whose jurisdiction in civil actions is restricted to thirteen dollars thirty-three cents, and in criminal to six dollars sixty-six cents, by the constitution and laws of the State which gave him judicial existence. These remarks, however, particularly apply to the State of New Hampshire. By the same section, you require and oblige (or subject to a fine) a constable or sheriff to perform an act under a law of the United States, which exposes and puts in jeopardy the freedom of the citizen, the most valuable privilege he can enjoy or possess here on earth.

The constable, under the laws of the State which are to direct his conduct, is not empowered to serve a precept where the sum demanded exceeds thirteen dollars thirty-three cents. He is chosen by a town, without a commission or responsibility, many times little informed, and generally unacquainted with your laws and the duties required under them. If a sheriff is employed, he is a county officer, appointed by the Governor and Council for five years, and knows no other duties than such as are pointed out to him by the laws of the State in which he lives, and particularly relate to his official conduct, within the limits of the county in which he resides.

What is this officer directed to do? To arrest a fugitive upon a warrant, founded upon a certificate illegal in its origin, and imperfect in its structure. The only description given of the fugitive by which the officer is to identify and be governed in making the arrest, is, "name, age, and sex," which, in fact, is no description. There is neither color, size, nor any other marks required to be given, by which the officer can identify the person, or safely make an arrest.

Here, Mr. President, is a simple statement of facts, as they arise in examining this bill. I shall venture to say, the course here directed is improper. Nay, more: the United States cannot constitutionally demand, or employ, the agency of any other power than its own, to discharge duties and perform services, under criminal laws emanating from Congress. The Constitution of the United States expressly says, "The judicial power shall extend to *all* cases in law and equity arising under this constitution, the laws of the United States, and the treaties made, or which shall be made, under their authority."

By this process of the constitution, we may distinctly see where the judicial power of the United States is deposited—that the laws of the United States are to be explained and enforced only by officers created by the constituted authorities of the United States. Are State and county judges, and justices of the peace, officers made under the Government of the United States? If they are, they are so made by a law of Congress. Will it be pretended that Congress have authority, by a legislative act, to prescribe the duty, create the office and the officer, ordain and establish the court and the judge? The doctrine is preposterous; it is too absurd to be admitted for a moment; it would be an assumption of power inconsistent in its nature and dangerous in its consequences. A part of this duty is confided to another branch of the Government by the express provision of the constitution and immemorial usage. The Government of the United States is composed of three distinct branches—each of which has duties to perform—the Legislative, Executive, and Judicial. They are designed to be kept as distinct and independent of each other, as the nature of a free Government will admit. It is the province of the Legislature to make laws, not judges. You have lately passed a law dividing the State of Pennsylvania into two districts, by which a new court is created, but you have not created the judges. To do this by law, would have been too manifest a violation of legislative power to be countenanced in this House. These State and county officers are not officers of this Government, and Congress have no claims upon their services as such. It is the duty of the Executive department to appoint officers. For this important feature in the structure of our Government, there are many cogent reasons. The law, and the execution of the law, should always emanate from different sources. This is a fundamental principle in a republican government. And when this principle is abandoned, one of the great barriers to the encroachments of power is annihilated—usurpation is the natural result, and collision must be the unavoidable consequence. It is the business of the judicial power to expound and execute the laws. For these duties the courts are qualified by their previous education and application to the general and particular principles of jurisprudence.

The extent of the several powers and duties of these respective branches of the Government, are distinctly prescribed by the constitution. Each has an orbit in which it may safely revolve, and, while it keeps within its own sphere, no danger will result from its legitimate action; but, when permitted to diverge, collision, confusion, and destruction, are the inevitable consequences. It is not sufficient that an agent, who performs an act for the United States, be an officer of the United States; it must also appear that his authority to perform that act is derived from a legitimate source, otherwise the act is void. For an officer, in the District of Columbia, to apprehend a person, by virtue of a law of Virginia, would be an illegal arrest, and, of course, void. We may reverse the position. It is not competent for an officer, who executes a law of the General Government, to show that there is such a law; but, that he derived his office from the constituted authority of the United States. Apply this to the State or county officer whom you employ. A warrant, an arrest, a commitment, or trial, pre-supposes authority, power, and jurisdiction. The granting of a warrant, pre-supposes authority.

To arrest, pre-supposes power. To commit or try, pre-supposes jurisdiction.

From what source does the county justice receive authority to arrest a person under a law of the United States? Surely not from the State, from the United States. You give him no authority—you cannot. The laws of the General Government do not make him a judicial officer, nor invest him with judicial power. He possesses powers for certain purposes, to be exercised according to the constitution and laws of that independent sovereignty from whom he derived all his authority.

On this view of the subject, sir, I am led to the conclusion that Congress has no constitutional power to authorize an officer, under a State government, to perform a judicial act. As false premises give rise to incorrect conclusions, it may be proper for me distinctly to state and define my view of judicial power and a judicial act. Sound premises render sophistical reasoning unnecessary, and present the force of an argument in a convincing point of view. By judicial power, I understand constitutional and "legal authority and discretion to adjudicate on any matter, which is, in some form or way, the subject of litigation and controversy; and he who exercises such authority and discretion, performs a judicial act." To declare what shall be a rule, or make a law, is an act of legislation; but to apply the law to the case, is a judicial act. Judicial discretion extends only to the application of the rules of law to the facts and circumstances of each case. And this discretionary power of applying the rules of law to the variety of cases which may be presented for adjudication, carries with it other incidental powers, as the right to judge of the competency, pertinency, and credibility of evidence. If these positions are correct, it needs no argument to show, that, under the provisions of this bill, the judge or justice exercises judicial power in every instance in which he is authorized to act. On the application of the owner of a fugitive, or his agent, the judge or justice is to decide, in view of the testimony presented, whether he is a slave, and does owe service or labor to the claimant, according to the laws of the State or Territory from which such fugitive may have escaped. This being decided in the affirmative, the claimant, or his agent, enters into a recognizance, on certain conditions, to perform certain acts. In consequence of which, the judge or justice grants his certificate, setting forth the name, age, and sex, of such fugitive, which certificate shall be verified by the signature of the person who grants it, and shall be certified by a clerk of a court that such officer is a judge or justice of the description required by this act.

This, sir, I consider a judicial act—not because giving a certificate of a fact is a judicial act, but because the certificate has, in its ultimate operation, the very nature of a warrant. The efficacy given to it, by the provisions of this bill, entirely changes it from the original character of a simple certificate, and makes it a sufficient warrant for a specific, judicial act. On presenting this certificate to a judge or justice, in a State or Territory to which the fugitive may have escaped, it is made ample authority for him, nay, you declare it is his "duty to grant a warrant, authorizing a sheriff or constable to apprehend such fugitive and bring him before such magistrate; and if it shall thereupon appear to the satisfaction of such judge or magistrate," by the testimony then produced, "that the person so apprehended has escaped, &c., the said judge or justice shall deliver such person to the owner, or his agent, with his certificate thereof, or at the request of such owner, or agent, shall issue his warrant requiring any sheriff, &c., to take charge and custody of such fugitive, and deliver him," &c. If it shall here appear, on examination, by the testimony offered, that the person named in the certificate, and arrested, is a fugitive, the justice shall deliver him to the claimant, or issue his warrant, and commit him to the custody of an officer. In these instances, I presume, no one will contend that the justice does not perform judicial acts. If it is possible for a magistrate to exercise judicial power, it must be in the performance of the duties above enjoined.

It is not only in granting a warrant, but in determining on the competency of the testimony, and the legality of the duty performed, that this judicial power is exercised; it is the province of a judicial officer to judge of the propriety and exercise the power of issuing a warrant to arrest a person. This, I presume, is a principle universally admitted. "To judge of the grounds of an accusation, on which a warrant to arrest may or may not be issued, is as really a judicial act as the process of trial and condemnation." Neither names of office, forms of evidence, nor degree of criminality, have any essential weight in determining the abstract nature and character of judicial power. This capacity to exercise the judgment, in view of testimony, for the purpose of removing doubts, obviating objections, and deciding on matters which are affirmed on the one part and presumed to be denied on the other, is always accompanied with a confidence of trust, the exercise of which, even in the incipient act of a justice of the peace, in granting a warrant to arrest a person, is an exercise of judicial power.

But, sir, permit me to take another view of the subject. It is not expedient for the United States to call on State and county officers, under State governments, to perform any duty under the criminal laws of Congress. It is much more suitable, correct, and proper, to empower only the officers of the General Government to execute its laws. It may justly be considered a perversion of the Constitution of the United States, and extremely dangerous, to commit power into the hands of those who are no way officially responsible; and, also, very unjust to exact service without compensation; especially, in many instances, where the State constitution and laws peremptorily prohibit the performance

of such official acts with the informalities allowed by the provisions of this bill. With the officers of the United States it is otherwise. They derive their appointment and official existence from your Government, to be employed in your service in the execution of your laws; they are compensated by the General Government, responsible to it, removable and punishable by it, and upon their services you have just claims. But this connection and mutual obligation between the Government of the United States and individual State and county officers does not, and cannot, exist. They derive their official existence and power from the Government of the State in which they reside. The constitution and laws of their State define and regulate their power and duties; the extent of their jurisdiction in civil and criminal causes, and the tenure of their offices. They are commissioned to perform services for the State; they are compensated by the State; they are amenable to the State; they are removable and punishable by the State, and by that only.

WEDNESDAY, March 11.

Fugitive Slaves.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory;" and the bill having been further amended, on motion by Mr. RUGGLES, that the further consideration thereof be postponed until the first Monday in July next, it was determined in the negative—yeas 11, nays 18, as follows:

YEAS.—Messrs. Burrill, Daggett, Horsey, Hunter, King, Morrow, Noble, Roberts, Ruggles, Tichenor, and Van Dyke.

NAYS.—Messrs. Campbell, Crittenden, Dickerson, Eppes, Fromentin, Gaillard, Goldsborough, Johnson, Leake, Macon, Otis, Sanford, Smith, Tait, Talbot, Taylor, Williams of Mississippi, and Williams of Tennessee.

On motion by Mr. DAGGETT to strike out the following section of the bill:

SEC. 6. *And be it further enacted*, That whenever the Executive authority of any State in the Union, or of either of the Territories thereof, shall, for or in behalf of any citizen or inhabitant of such State or Territory, demand any fugitive slave of the Executive authority of any State or Territory, to which such slave shall have fled, and shall moreover produce a certificate, issued pursuant to the first section of this act, it shall be the duty of the Executive authority of the State or Territory to which such fugitive shall have fled, to cause him or her to be arrested and secured, and notice of the arrest to be given to the Executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause such fugitive to be delivered to the said agent, on the confine or boundary of the State or Territory in which said arrest shall be, and in the most usual and direct route to the place from whence the said fugitive shall have escaped; and the reasonable expense of such arrest, detention, and delivery of such fugitive, shall be paid by the said agent.

It was determined in the negative—yeas 13, nays 16, as follows:

YEAS.—Messrs. Burrill, Daggett, Dickerson, Horsey, Hunter, King, Lacock, Morrill, Noble, Roberts, Ruggles, Tichenor, and Van Dyke.

NAYS.—Messrs. Campbell, Crittenden, Eppes, Fromentin, Gaillard, Goldsborough, Leake, Macon, Otis, Smith, Stokes, Tait, Talbot, Taylor, Williams of Mississippi, and Williams of Tennessee.

On motion by Mr. VAN DYKE, to insert in section 2, line 13, after "certificate," "and doth, under the laws of the State or Territory from which he or she fled owe service or labor to the person claiming him or her;" it was determined in the negative—yeas 11, nays 18, as follows:

YEAS.—Messrs. Burrill, Daggett, Horsey, Hunter, Lacock, Morrill, Noble, Roberts, Ruggles, Storer, and Van Dyke.

NAYS.—Messrs. Campbell, Crittenden, Eppes, Fromentin, Gaillard, Goldsborough, Johnson, King, Leake, Macon, Otis, Sanford, Smith, Stokes, Tait, Talbot, Williams of Mississippi, and Williams of Tennessee.

The bill having been further amended, the PRESIDENT reported it to the House accordingly; and the amendments having been concurred in, on motion by Mr. LACOCK, to add the following section to the bill:

"SEC. —. *And be it further enacted*, That this law shall be and remain in force for the term of four years, and no longer."

The Senate being equally divided, the PRESIDENT determined the question in the affirmative; and, on the question, "Shall the amendments be engrossed and the bill be read a third time, as amended?" it was determined in the affirmative.

THURSDAY, March 12.

Fugitive Slaves.

The amendments to the bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory," having been reported by the committee correctly engrossed, the bill was read a third time as amended; and, on the question, "Shall this bill pass as amended?" it was determined in the affirmative—yeas 17, nays 13, as follows:

YEAS.—Messrs. Campbell, Crittenden, Eppes, Fromentin, Gaillard, Goldsborough, Johnson, Macon, Otis, Sanford, Smith, Stokes, Tait, Talbot, Taylor, Williams of Mississippi, and Williams of Tennessee.

NAYS.—Messrs. Burrill, Daggett, Dickerson, Horsey, Hunter, King, Lacock, Morrow, Noble, Roberts, Ruggles, Tichenor, and Van Dyke.

So it was *Resolved*, That this bill pass with amendments.

TUESDAY, March 24.

Case of R. W. Meade.

Mr. BARBOUR, from the Committee on Foreign Relations, to whom was referred the petition of sundry citizens of Philadelphia, asking the interposition of Congress in behalf of Richard W. Meade, an American citizen, unjustly and wantonly confined in a dungeon in Spain, by the authority of that Government, made a report; which was read, as follows:

The Committee of the Senate on Foreign Relations, to whom was referred the petition of sundry citizens of Philadelphia, asking the interposition of Congress in behalf of Richard W. Meade, an American citizen, unjustly and wantonly confined in a dungeon in Spain, by the authority of that Government, have given to the subject the deliberation its importance deserved, and beg leave to submit the following report: It appears from the documents, R. W. Meade is an American citizen, who went to Spain in the year 1803 on lawful business; that in the year 1806, such was the confidence of the Government in his integrity, that he was appointed Navy Agent for the United States at the port of Cadiz; a station which he held until the time of his confinement. Such was the correctness of his deportment, as to have been appointed by the tribunal of commerce at Cadiz, with the consent of all the parties concerned, assignee of a bankrupt, the amount of whose estate involved a high responsibility. He performed the duties thus devolved upon him, honestly; and, having collected for distribution fifty thousand dollars, he several times petitioned the tribunal to permit him to remit this sum to the creditors of the bankrupt resident in England; the only proper course left him to pursue, inasmuch as he had, when appointed agent of the bankrupt, given his bond to that tribunal conditioned to take charge of the effects of the bankrupt, and to be responsible solely to the tribunal for the proceeds, being prohibited under the penalty of the bonds from disposing of the funds without the sanction of the tribunal. A controversy having arisen between the creditors and bankrupt about the distribution, Meade offered the money to either, if they would give bond, with sureties, to the satisfaction of the tribunal of commerce, by which his own might be cancelled. This they were unable to do. The tribunal, of its own accord, and unexpectedly, decided that Meade should, on the following morning, place the money in the King's treasury, until the parties litigant should give the security required; it being declared that all Meade's property should be sequestered in the case of non-payment at the time limited. The money was forthwith paid by Meade into the treasury, in treasury notes equal to specie, and hence acknowledged by the Treasurer, that the deposit had been made in due form, under his inspection, in effective specie, and that whenever the tribunal should order its payment, His Majesty would pay it in the same coin.

Notwithstanding this judgment, and the discharge thereof, by the payment aforesaid, Mr. Dermot, the agent for the British creditors, brought suit against Meade in the same court to recover the very sum he had heretofore paid in conformity to its own judgment. The court awarded judgment against Meade a second time for this money. The latter appealed to the superior tribunal, called Abradas. During its pendency, it is charged by Meade, that the cause was removed, by the interposition of the British Minister, to the council of war, and, by the same interposition, his arrest and confinement were procured, from which he could be relieved only by a repayment of the money. He has languished in confinement from the 2d of May, 1816, down to the last accounts from Spain.

The Representative of this nation at that Court has repeatedly appealed to His Catholic Majesty for the relief of Meade; and the appeal has been in vain—the Court of Spain having refused either to restore the money deposited in its own treasury, by order of its own competent judicial authority, or to release the person of Meade from the long confinement to which he has been doomed; and, finally, the President of the United States, whose peculiar province is to take cognizance of subjects of this kind, has caused a representation of the subject to be made to the Minister of Spain to the United States, demanding his immediate liberation. Nothing but a confidence that this representation will produce the desired result, would have restrained your committee from recommending the adoption of measures of severe retribution.

Your committee are of opinion, that it is due to the dignity of the United States to adopt, as a fundamental rule of its policy, the principle, that one of its citizens, to whatever region of the earth his lawful business may carry him, and who demeans himself as becomes his character, is entitled to the protection of his Government, and whatever intentional injury may be done him should be retaliated by the employment, if necessary, of the whole force of the nation.

Medals to Harrison and Shelby.

Mr. DICKERSON, agreeably to notice given yesterday, asked leave to introduce a resolution offering the thanks of Congress to Major General William Henry Harrison and Isaac Shelby, late Governor of Kentucky, for their distinguished bravery and good conduct in capturing the British army under command of Major General Proctor, at the battle of the Thames in Upper Canada, on the 5th of October, 1813.

Mr. D. then offered the following resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress be, and they are hereby, presented to Major General William Henry Harrison, and Isaac Shelby, late Governor of Kentucky, and through them to the officers and men under their command, for their gallantry and good conduct in defeating the combined British and Indian forces under Major General Proctor, on the Thames, in Upper Canada, on the 5th day of October, one thousand eight hundred and thirteen, capturing the British army, with their baggage, camp equipage, and artillery; and that the President of the United States be requested to cause two gold medals to be struck, emblematical of this triumph, and presented to General Harrison and Isaac Shelby, late Governor of Kentucky.

The resolution was read and passed to a second reading.

WEDNESDAY, March 25.

Seminole Indians.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I now lay before Congress all the information in the possession of the Executive, respecting the war with the Seminoles, and the measures which it has been thought proper to adopt, for the safety of our fellow-citizens on the frontier exposed to their ravages. The enclosed documents show that the hostilities of this tribe were unprovoked, the offspring of a spirit long cherished, and often manifested towards the United States, and that, in the present instance, it was extending itself to other tribes, and daily assuming a more serious aspect. As soon as the nature and object of this combination were perceived, the Major General commanding the Southern division of the troops of the United States, was ordered to the theatre of action, charged with the management of the war, and vested with the powers necessary to give it effect. The season of the year being unfavorable to active operations, and the recesses of the country affording shelter to these savages, in case of retreat, may prevent a prompt termination of the war, but it may be fairly presumed that it will not be long before this tribe, and its associates, receive the punishment which they have provoked and justly merited.

As almost the whole of this tribe inhabits the country within the limits of Florida, Spain was bound, by the Treaty of 1795, to restrain them from committing hostilities against the United States. We have seen, with regret, that her Government has altogether failed to fulfil this obligation, nor are we aware that it made any effort to that effect. When we consider her utter inability to check, even in the slightest degree, the movements of this tribe, by her very small and incompetent force in Florida, we are not disposed to ascribe the failure to any other cause. The inability, however, of Spain, to maintain her authority over the territory, and Indians within her limits, and in consequence to fulfil the treaty, ought not to expose the United States to other and greater injuries. When the authority of Spain ceases to exist there, the United States have a right to pursue their enemy, on a principle of self-defence. In this instance, the right is more complete and obvious, because we shall perform only what Spain was bound to have performed herself. To the high obligations and privileges of this great and sacred right of self-defence will the movement of our troops be strictly confined. Orders have been given to the General in command not to enter Florida, unless it be in pursuit of the enemy, and in that case, to respect the Spanish authority, wherever it is maintained, and he will be instructed to withdraw his forces from the province, as soon as he shall have reduced that tribe to order, and secure our fellow-citizens, in that quarter, by satisfactory arrangements, against its unprovoked and savage hostilities in future.

JAMES MONROE.

WASHINGTON, *March* 25, 1818.

The Message and accompanying documents were read, and two hundred additional copies thereof ordered to be printed for the use of the Senate.

TUESDAY, March 31.

Honors to Colonel R. M. Johnson.

Agreeably to notice given, Mr. BARBOUR asked and obtained leave to bring in a resolution requesting the President of the United States to present to Colonel Richard M. Johnson a sword, as a testimony of the high sense entertained by Congress of the daring and distinguished valor displayed by himself and the regiment of volunteers under his command, in charging the enemy on the Thames, in Upper Canada, on the 5th October, 1813; and the resolution was read twice by unanimous consent, and considered as in Committee of the Whole, and having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the resolution was ordered to be engrossed, and read a third time.

On introducing the proposition for causing a sword to be presented to Colonel R. M. Johnson—

Mr. BARBOUR said, in availing himself of the notice given on yesterday, of asking leave to introduce a resolution, whose object would be to present to Colonel Richard M. Johnson some testimonial of the high sense entertained by the nation of the distinguished services rendered by him on the 5th October, 1813, in the battle of the Thames, he considered himself bound to make a few remarks, disclosing the propriety of granting the leave asked.

As to the distinguished merit of Colonel Johnson, he presumed there could be no difference of opinion; the only objection that could possibly present itself would be, the time when the resolution was presented, or possibly the grade which Colonel Johnson held in the army. To remove these, if they exist, was all that devolved on him. As to the objection of time, it will at once be removed by reflecting on that which has just occurred—the vote of thanks which has been awarded in favor of General Harrison and Governor Shelby. It is not unknown that rumor, the result of envy, or some other bad passion, had attempted to throw a shade around the character of that distinguished commander. He felt as he ought, and sought an investigation, to vindicate his character from the foul aspersions which had been cast upon it. It, after some delay, took place, and resulted in an honorable acquittal. In the mean time the venerable Shelby was, at his own request, withheld from the notice of the nation, as it regarded the distinguished services he had rendered—Shelby, a name which can never be mentioned without awakening in every American bosom emotions of gratitude. I see in this illustrious character a display of that love of country and chivalrous spirit which conceived and effected our independence, and, unabated by age, it reappeared to vindicate those rights, to the establishment of which, in his more youthful days, he had so essentially contributed; but he is as generous as he is brave, and he refused to accept a tribute of respect, whose indirect consequence might have been a reflection on the Commander-in-chief, to whose zeal, patriotism, and capacity in conducting this campaign, he always bore a cheerful testimony.

Colonel Johnson, influenced by the same sensibility, peremptorily refused to his friends the permission of bringing this subject before the Representatives of the people. I, however, will barely remark, in regard to the commanding general, that, with the regrets which the delay of justice to this citizen must necessarily create, will be mingled some consolation in the reflection, that his character has been entirely purified from the censure which had been improperly cast upon it; and that the meed now dispensed has the sanction of the deliberate judgment of the nation, unbiassed by passion or the false fire of the moment. He will now receive it with a grateful feeling, as the highest reward which freemen can give or a freeman receive.

With regard to Colonel Johnson, it is due to him to say, this proposition is now made without his consent. Mr. B., however, who took a pride in calling him his friend, took the responsibility upon himself, because he thought it would be an act of consummate injustice, were no lasting memorial to be erected to the valor which he so signally displayed on the occasion alluded to. Another motive with Mr. B. was, a notification on the part of Colonel Johnson, of his retiring from public life. While he regretted this event as a serious loss to the public councils, he was perfectly satisfied that his reasons were sufficient to justify it. While upon this subject he would barely add, that he was satisfied it would not be deemed an exaggeration when he asserted that no man in Congress had performed more service than Colonel Johnson. In addition to the just claims of his own particular constituents upon him, what part of the Union is it from which applications have not been made and cheerfully attended to by this patriotic citizen? So much for the first objection that might possibly be made, although he did not anticipate it. As to the second difficulty, that might exist in the opinion of some gentlemen, the grade of Colonel Johnson—if there were no precedent applicable to this case, Mr. B. would have had no difficulty in fixing one. It is the attribute of all governments to adapt their proceedings to the endless vicissitudes which human affairs continually present. The valor displayed by Colonel Johnson is unsurpassed by any example in the annals of mankind. But it is not now necessary to press this question, because you have a precedent in the case of McDonough and his associates, in the distinguished victory gained by them on Lake Champlain, over a British squadron, and some others. Mr. B. said he should but ill represent the feelings of his friend, or his own, if, in asking for this tribute of respect, any thing could be inferred from what is said or done, unfavorable to those patriotic officers holding grades between Colonel Johnson and the Commander-in-chief. It was but justice to them to say, that had it been their good fortune on the day of battle to have had the post of honor, they would have acquired those laurels so dearly earned by Colonel Johnson. Generous as brave, so far from looking with an eye of envy upon this honorable tribute of gratitude, dispensed in behalf of this distinguished citizen, they will warmly participate in the fine feelings with which Colonel Johnson will receive this mark of his country's distinction.

As to the merit of Colonel Johnson to this evidence of our gratitude, Mr. B. said, he had already declared that upon this point there could be no difference of opinion. To expatiate upon it would be unnecessary; yet he could not dismiss this subject without briefly enumerating some of the leading acts of his public life, so far at least as they connect themselves with the question under consideration.

Let it then be remembered that he was zealously in favor of the war. Not content with the distinguished place he held in the councils of the nation, he patriotically resolved to vindicate with his own arm those rights which he had so manfully asserted while voting for the declaration of war. He erects his standard and proclaims his purpose, and although much was to have been expected from the patriotism, the zeal, the enterprise, and courage of Kentucky—a people Mr. B. delighted to honor, as, in addition to their merit, he considered them his own kindred, thousands of his near and highly respected relations being there—although, he said, much was to have been expected, yet, when we reflect upon the devotedness of those old and young, rich and poor, rallying around the standard of their country, we see a new subject of admiration.

In doing justice to those patriots, let it not be understood that any invidious distinction is intended to be made in their favor. Mr. B. said he well knew that illustrious examples of courage and patriotism were exhibited in other portions of the Union, and on all proper occasions he was prepared to lift his feeble voice to do them ample justice. But, to return to the patriotic volunteers, who embodied at the call of Colonel Johnson, displaying a spectacle as honorable to themselves as to Colonel Johnson—manifesting the high confidence they reposed in this their illustrious citizen—these brave men, leaving their homes and their domestic blessings, and, weighing the honor of their country and the defence of her rights against the privations and hazards of war, willingly accepted them as an equivalent. Undeterred by the difficulties or dangers to which they are about to be exposed, they fearlessly commit themselves to the trackless desert, to the secret danger of the ambuscaded savage, or the more open perils of their less savage ally. A night of misfortune had shed its disastrous gloom over our affairs. It was given to Commodore Perry to turn back the tide of adversity upon the fountain from which it flowed. Lake Erie was reserved for the display of the brilliant superiority of American bravery and seamanship over our then haughty foe—achieving a victory, which, in the language of President Madison, will fill an early page in our naval annals,

as having never been surpassed in lustre, however much it may have been in magnitude. The way having been opened, the commanding general and his veteran associate, with promptitude, availed themselves of the opportunity thus offered, to throw themselves in the enemy's country, and pursuing, with unanimity and an unexampled rapidity, (of which pursuit Colonel Johnson led the van,) speedily overtook them. The battle is arrayed; the post of honor, for such he made it, is assigned Colonel Johnson. The enemy have the Thames on the left; a British regiment, seven hundred strong, has also a ravine on the right, beyond which was the celebrated Tecumseh, at the head of fifteen hundred savages—a force truly formidable. When we refer to the commander, of whom it may be said, unless his character has been greatly exaggerated, that, had he have been favored with the embellishments of civilized life, and the benefits of military experience, he would have been one of the most distinguished captains of the present eventful period; to which, when we superadd that his associates were acting under the impression of their being under the particular favor of Heaven, it well may be said that the force thus to be encountered was indeed formidable. This force, so placed, and so formidable to ordinary minds, presented nothing alarming to the mounted regiment. Colonel Johnson divides his regiment, say one thousand strong—one battalion placed under the command of Colonel James Johnson, who gave, in accepting his station under a younger brother, an honorable evidence of his patriotism; the other battalion, headed by himself, passed a defile, and placed itself on the right of the marsh. The bugle was to announce the readiness for attack. The sound is heard, and, mingled with the watchword, victory or death, floated along the line. The British force was overwhelmed in an instant; they threw down their arms, and on their knees supplicated mercy. Although there was a long account of unatoned-for blood, impiously shed by this united British and Indian force, and retaliation justified even to their entire extermination, yet, at the cry of mercy, the sword was immediately sheathed, and the guilty survived. Far different was the conflict with the savage foe; there man was opposed to man, in single combat, rifle to rifle, and tomahawk to tomahawk; wounds and death were mutually dealt out. Colonel Johnson, early in the combat, received two severe wounds, attended with the loss of much blood. In this trying crisis an ordinary courage would have retired from the combat; on him it had a different effect. It seemed to impart to him new courage, which manifested itself in a prodigy of valor, which loses nothing in a comparison with the most splendid achievement recorded in the whole extent of "backward time." Calling around him twenty spirits, the bravest among the brave, he resolved, at their head, to precipitate himself on the fiercest part of the conflict, where Tecumseh in person commanded, and who was the soul of the battle. Of these daring spirits, composing the forlorn hope, one only escaped. The others were all cut down, some to rise no more; the remainder mangled by numerous wounds, of which the subject of the present resolution had his melancholy share. Bleeding, exhausted by effusion of blood, and alone, his fate seemed inevitable, when Tecumseh, cool, and collected, approached with his unerring rifle and ruthless tomahawk. It pleased Providence to interpose. Amidst universal carnage, and in the teeth of approaching death, Colonel Johnson remained undismayed, and hurled at Tecumseh that death which had been prepared for him. This is the man and the services to which Mr. B. wished an honorable testimony to be erected, one more lasting than that which is found in evanescent papers of the day. If any thing was necessary to be added in support of the high claims of this distinguished citizen upon the gratitude of his country, it would be found in the honorable notice taken of him by the commanding general, and repeated, in the most flattering manner, by President Madison, in communicating the result of the battle to Congress. But it is more than unnecessary to furnish any additional proofs. Wherever there is an American, the courage and services of Colonel Johnson are known and applauded. Mr. B. indulged a hope, bordering on confidence, that the measure he now proposed would receive the unanimous consent of the Senate, for in that unanimity its principal merit would consist.

FRIDAY, April 3.

British West India Trade—Navigation Bill.

The Senate resumed the consideration of the bill concerning navigation, reported by the Committee of Foreign Relations on Wednesday.

[The 1st section provides, that from and after the 30th of September next, the ports of the United States shall be and remain closed against every vessel owned wholly or in part by a subject or subjects of His Britannic Majesty, coming or arriving from any part or place in a colony or territory of His Britannic Majesty, that is or shall be, by the ordinary laws of navigation and trade, closed against vessels owned by citizens of the United States; and every such vessel, so excluded from the ports of the United States, that shall enter, or attempt to enter the same, in violation of this act, shall, with her tackle, apparel, and furniture, together with the cargo on board such vessel, be forfeited to the United States.

The 2d section provides, substantially, that any British vessel entering our ports, shall, on her departure, if laden with the productions of the United States, give bonds not to land her cargo at any of the British ports prohibited in the first section, and to forfeit vessel, tackle, &c., if she attempts to sail without so giving bond.

The 3d section enacts the manner of recovering the penalties, accounting for them, &c.]

Mr. BARBOUR, of Virginia, said, as the organ of the committee who reported the bill, it was expected of him by the Senate that he should disclose the views of the committee on this interesting subject.

It certainly behooved the Senate to give this subject its most serious attention, and to act only upon the most mature deliberation; for remember, when once adopted, it must be adhered to. To recede, would be to insure an endless duration to the serious evils of which we complain, and, what is still of more consequence, it must be attended with a diminution of character. Any policy, adopted by the unanimous consent of the nation, founded in justice and wisdom, and sustained by perseverance, must finally be felt and yielded to by any and every nation on which it operates. The object of the bill under consideration, is to relieve from the effects of measures adopted by Great Britain in relation to our commercial intercourse with her North American colonies and West Indies; measures exclusively against us, as injurious to our navigating interest as they are offensive to our dignity. The invidious policy of which we complain, and which is attended with such unpleasant effects, may be summed up in a few words. She has shut her ports in the possessions formerly alluded to, against American vessels and American property. Not a cock-boat, not an atom of any thing that is American, does she permit to enter, while she modestly insists to bring every thing that she pleases from these possessions to the United States, and to purchase, and exclusively to carry the produce and manufactures of the United States in return; that is, she insists upon, and we have been tame enough to submit to it, to enjoy exclusively the whole of this valuable intercourse.

The evil has been of long standing; it commenced upon our becoming an independent people. She was not generous enough to forget that we had been enemies, nor wise enough to profit by a liberal policy. She would have found in the same language, the same habits, the same feelings; and in the kind affections inseparably attending two people of a common origin, except when repressed by injustice or oppression; she would have found in these circumstances sure guarantees to an uninterrupted, friendly, and, to her, highly beneficial intercourse. But other counsels prevailed, and displayed a new proof of the mortifying truth, that small, indeed, is the portion of wisdom that directs the government of human affairs. Hence, the moment she acknowledged our independence, she immediately denounced against the United States all the rigor of her colonial system—departing from it only in such parts as would promote her interest, and render it more injurious and humiliating to us. She superciliously rejected all offers at negotiation. The United States, without a common head, and pursuing among themselves an insulated, and frequently a selfish and an unwise policy, became the footballs of Great Britain, who, watching, as she always does, with a sleepless eye, whatever is to affect her commerce, seized instantly upon her defenceless prey, and pushed her exclusive system to the uttermost of endurance. In this spirit, instead of being content with enforcing towards us the real colonial system, which was, that the trade should be exclusive through and with the mother country, she permitted the produce of her dependencies to be brought directly to this country, and the produce of this country to be carried back directly to them, but both operations to be effected exclusively by British shipping, to the consequent exclusion of the American shipping from the transportation of the produce even of America. So injurious were the effects resulting from our commercial intercourse, and so entirely unable were the United States to counteract these effects in their then disjointed condition, that our sanguine anticipations from the successful result of our Revolution, began fast to dissipate, and no little solicitude to be experienced in regard to the future. This state of things produced a convention of the States, and finally resulted in our present happy constitution. I am authorized to say, from the best authority, that it is to this cause chiefly, if not entirely, that we are indebted for this greatest blessing of Heaven. In looking through the history of mankind, and tracing the causes which contribute to the rise and downfall of nations, it frequently becomes a subject of curious speculation, when we see the most propitious results flowing from apparently injurious causes, and the worst passions of mankind converted into the means of furthering some beneficent purpose of Providence. Little did the statesman of Britain think, when indulging his thirst for cupidity or revenge, that he was to become the involuntary benefactor of America, by essentially contributing to the order of things which now exists, and which, under Providence, will insure us an endless succession of power, of prosperity, and of happiness.

The new Governemnt being organized, it turned its attention to the particular subject intrusted to its care. Unfortunately, however, other objects, both foreign and domestic, interposed before its deliberations ripened into action. Europe was agitated by a convulsion the most important in the annals of the world, whether we regard its duration, its extent, or its effects. During this troubled state of the world, the policy now under consideration, engaged the attention of Congress. The result of the effort at that time is known to the Senate —the causes leading thereto lie out of the proper sphere of the present discussion. Mr. Jay was sent to England—he negotiated a treaty—so much of it as relates to the trade in question, eventuated in nothing; but such was the condition of the nations of Europe, that we enjoy ed, from the necessities of England, what we

had a right to expect from her justice. America became the carrier of the world, and her commerce, her shipping, and her wealth, increased in the most astonishing ratio, till at length America, in her turn, felt the effects of war, and its frequent privations. Peace was no sooner established, than Great Britain resorted to her colonial system, with all its abuse. The more intolerable, as it is exclusively directed against us, inasmuch as she indulges to the vessels of other nations an intercourse withheld from us; a course aggravated by the consideration that she stands alone in this policy, American vessels being admitted into French, Spanish, Dutch, and Swedish colonies. This course, so injurious to our interest, and so offensive to a just pride, claimed the immediate attention of the Government, and efforts were made to obtain redress by a treaty; the result is known. Mr. B. begged leave to read so much of President Madison's Message at the last session of Congress, as regards this subject. Here you perceive the door of negotiation is closed; all hope of redress in that way is desperate, and he calls upon Congress to interpose. Independently of the respect due to the recommendation of a President of the United States, there were other considerations which would give a weight to this opinion of Mr. Madison. When it is recollected, that he devoted the whole of his most useful life to his country, with motives always pure, and with a judgment but little liable to err, guided as it was by a superior genius; when such a man, from the commencement of the Government, down to the moment of his quitting public life, with the benefit of thirty years' observation and experience, invariably entertains the same opinion, and, in his last solemn appeal to the nation, strongly inculcates the propriety of the measure now under consideration, Mr. B. was justifiable in saying a recommendation thus sustained would receive from the Senate a degree of consideration far beyond that arising from mere official respect. In addition to this, we have been advised by President Monroe of his fruitless attempts to procure redress by negotiation, and he also submits to Congress the propriety of interposing by regulations, whose effects will produce that which he has in vain sought to obtain by negotiation.

Mr. KING addressed the Chair as follows: Agriculture, manufactures, and foreign commerce, are the true sources of wealth and power of nations; agriculture is the chief and well-rewarded occupation of our people, and yields, in addition to what we want for our use, a great surplus for exportation. Manufactures are making a sure and steady progress; and, with the abundance of food and of raw materials, which the country affords, will, at no distant day, be sufficient, in the principal branches, for our own consumption, and furnish a valuable addition to our exports.

But, without shipping and seamen, the surpluses of agriculture and of manufactures would depreciate on our hands; the cotton, tobacco, breadstuffs, provisions, and manufactures, would turn out to be of little worth, unless we have ships and mariners to carry them abroad, and to distribute them in the foreign markets.

Nations have adopted different theories, as respects the assistance to be derived from navigation; some have been content with a passive foreign commerce—owning no ships themselves, but depending on foreigners and foreign vessels to bring to them their supplies, and to purchase of them their surpluses; while others, and almost every modern nation that borders upon the ocean, have preferred an active foreign trade, carried on, as far as consistent with the reciprocal rights of others, by national ships and seamen.

A dependence upon foreign navigation subjects those who are so dependent, to the known disadvantages arising from foreign wars, and to the expense and risk of the navigation of belligerent nations—the policy of employing a national shipping is, therefore, almost universally approved and adopted: it affords not only a more certain means of prosecuting foreign commerce, but the freight, as well as the profits of trade, are added to the stock of the nation.

The value and importance of national shipping and national seamen, have created among the great maritime powers, and particularly in England, a strong desire to acquire, by restrictions and exclusions, a disproportionate share of the general commerce of the world.

As all nations have equal rights, and each may claim equal advantages in its intercourse with others, the true theory of international commerce is one of equality, and of reciprocal benefits; this theory gives to enterprise, to skill, and to capital, their just and natural advantages; any other scheme is merely artificial; and so far as it aims at advantages over those who adhere to the open system, it aims at profit at the expense of natural justice.

The colonial system being founded in this vicious theory, has, therefore, proved to be the fruitful source of dissatisfaction, insecurity, and war. According to this system, the colonies were depressed below the rank of their fellow subjects, and the fruits of their industry and their intercourse with foreign countries, placed under different regulations from those of the inhabitants of the mother country; it was the denial to Americans of the rights enjoyed by Englishmen, that produced the American Revolution—and the same cause, greatly aggravated, is working the same effect in South America.

Among the navigators and discoverers of the fifteenth and sixteenth centuries, the Dutch became highly distinguished, and, by enterprise, economy, and perseverance, made themselves the carriers of other nations, and their country the entrepot of Europe—and it was not until the middle of the fourteenth century, that England passed her navigation act, which had for its object to curtail the navigation of the Dutch and to extend her own.

According to this act, the whole trade and intercourse between England, Asia, Africa, and America, were confined to the shipping and mariners of England; and the intercourse between England and the rest of Europe was placed under regulations which, in a great measure, confined the same to English ships and seamen.

This act was strenuously opposed by the Dutch, and proved the occasion of the obstinate naval wars that afterwards followed. England was victorious, persisted in her navigation act, and, in the end, broke down the monopoly in trade which the Dutch possessed.

That in vindication of her equal right to navigate the ocean, England should have resisted the monopoly of the Dutch, and freely expended her blood and treasure to obtain her just share of the general commerce, deserved the approbation of all impartial men. But, having accomplished this object, that she should herself aim at, and in the end establish, the same exclusive system, and on a more extended scale, is neither consistent with her own laudable principles, nor compatible with the rights of others; who, relatively to her monopoly now, are in the like situation towards England in which England was towards the Dutch, when she asserted and made good her rights against them.

By the English act of navigation, the trade of the colonies is restrained to the dominions of the mother country, and none but English ships are allowed to engage in it.

So long as colonies are within such limits as leave to other nations a convenient resort to foreign markets for the exchange of the goods which they have to sell, for those they want to buy, so long this system is tolerable; but if the power of a State enables it to increase the number of its colonies and dependent territories, so that it becomes the mistress of the great military and commercial stations throughout the globe, this extension of dominion, and the consequent monopoly of commerce, seem to be incompatible with, and necessarily to abridge the equal rights of other States.

In the late debates in the English Parliament, the Minister, in the House of Lords, stated "that instead of seventeen thousand men, employed abroad in 1791, forty-one thousand were then (1816) required, exclusive of those that were serving in France and in India. That England now has forty-three principal colonies, in all of which troops are necessary; that sixteen of these principal colonies were acquired since 1791, and six of them had grown into that rank from mere colonial dependencies." And, in the House of Commons, the Minister, alluding to the acquisitions made during the war with France, said "that England had acquired what, in former days, would have been thought romance—she had acquired the keys of every great military station."

Thus, the commercial aggrandizement of England has become such, as the men who protested against monopoly, and devised the navigation act to break it down, could never have anticipated; and it may, ere long, concern other nations to inquire whether laws and principles, applicable to the narrow limits of English dominion and commerce, at the date of the navigation act, when colonies and commerce, and even navigation itself, were comparatively in their infancy; laws and principles aimed against monopoly, and adopted to secure to England her just share in the general commerce and navigation of the world, ought to be used by England to perpetuate in her own hands a system equally as exclusive, and far more comprehensive, than that which she was the chief agent to abolish.

Our commercial system is an open one—our ports and our commerce are free to all—we neither possess, nor desire to possess, colonies; nor do we object that others should possess them, unless thereby the general commerce of the world be so abridged, that we are restrained in our intercourse with foreign countries wanting our supplies, and furnishing in return those which we stand in need of.

But, it is not to the colonial system, but to a new principle, which in modern times has been incorporated with those of the navigation act, that we now object. According to this act, no direct trade or intercourse can be carried on between a colony and a foreign country; but by the free port bill, passed in the present reign, the English contraband trade, which had been long pursued, in violation of Spanish laws, between English and Spanish colonies, was sanctioned and regulated by an English act of Parliament; and, since the independence of the United States, England has passed laws, opening an intercourse and trade between her West India colonies and the United States, and, excluding the shipping of the United States, has confined the same to English ships and seamen; departing by this law not only from the principles of the navigation act, which she was at liberty to do, by opening a direct intercourse between the colonies and a foreign country, but controlling, which she had no authority to do, the reciprocal rights of the United States to employ their own vessels to carry it on.*

Colonies being parts of the nation, are subject to its regulations; but, when an intercourse and trade are opened between colonies and a foreign country, the foreign country becomes a party, and has a reciprocal claim to employ its own vessels equally in the intercourse and trade with such colonies, as with any other part of the nation to which they belong.

Governments owe it to the trust confided to them, carefully to watch over, and by all suitable means to promote, the general welfare; and while, on account of a small or doubtful incon-

* England alone excludes our vessels and seamen from the trade opened between her West India colonies and the United States. In the same trade between the United States and the colonies of France, Spain, Holland, Denmark and Sweden, our vessels and seamen are alike employed, as those of the parent countries, respectively.

venience, they will not disturb a beneficial intercourse between their people and a foreign country, they ought not to omit the interposition of their corrective authority, whenever an important public interest is invaded, or the national reputation affected. "It is good not to try experiments in states, unless the necessity be urgent, or the utility evident; and well to beware, that it be the reformation that draweth on the change, and not the desire of change that pretendeth the reformation."

In this case, the importance of the reformation is seen and acknowledged by every one, and the delay that has occurred in the making of it may call for explanation.

We are unable to state with accuracy the tonnage and seamen employed before the Revolution, in the trade between the territories of the United States and the other English colonies, but it is known to have been a principal branch of the American navigation.

The colonies that England has since acquired from France, Spain, and Holland, together with the increased population of the old colonies, require more ships and seamen to be employed in the trade now than were engaged in it before the independence of the United States.

Without reference to the tonnage and trade between the United States and the English West India colonies, during the late wars between England and France, which, by reason of the suspension of the English navigation act, and the neutrality of the United States, will afford no standard by which the tonnage and trade of peace can be ascertained, the present custom-house returns are the best documents that we can consult upon this subject. According to a late report from the Department of the Treasury, the tonnage employed in this trade during the year 1816, which may be taken as an average, amounted to one hundred and two thousand tons, requiring between five and six thousand seamen. There may be some error in this return, though we are not able to detect it; the magnitude and importance of the shipping and seamen engaged in this trade, will be more readily understood by comparison than otherwise. The tonnage thus employed exceeds the whole tonnage employed by the English East India Company in its trade with Asia; is nearly a moiety of the American and English tonnage employed between the United States and England, and her possessions in Europe; is equal to the American tonnage employed between the United States and England, and is almost an eighth part of the whole registered tonnage of the United States.

To the loss of profits, which would accrue from an equal participation in this trade, may be added the loss of an equal share of the freights made by the vessels engaged in it; the amount whereof must be equal to two millions of dollars, annually. Other advantages are enjoyed by England, by the possession of the exclusive navigation between the United States and her colonies, and between them and England. Freights are made by English vessels between England and the United States, between them and the English colonies, as well as between those colonies and England. English voyages are thus made on the three sides of the triangle, while those of the United States are confined to one side of it, that between the United States and England.

The documents that have been communicated to the Senate, by the Chairman of the Committee of Foreign Relations, (Mr. BARBOUR,) satisfactorily prove that we are independent of the English colonies for a supply of sugar and coffee for our own consumption; our annual re-exportation of these articles exceeding the quantity of them annually imported from the English colonies; and, in respect to rum, the other article imported from these colonies, its exclusion will be the loss to England of its best and almost only market; and its place will be readily supplied by other foreign rum and by brandy; or, which is more probable, by domestic spirits distilled from grain.

The exports from the United States to the English West India colonies have been estimated at four millions of dollars annually; the problem has been disputed ever since the independence of the United States, and still remains to be solved, whether these colonies could obtain from any other quarter the supplies received from the United States. To make this experiment effectually, further restrictions and regulations may become necessary, which it is not now deemed expedient to propose. If the question be decided in the negative, the supplies will be continued from the United States, and our shipping will be benefited.

If the articles heretofore supplied from this country can be obtained elsewhere, we must find out other markets for our exports, or the labor employed in preparing them must be applied to some other branch of industry. We have the power, and hereafter it may become our policy, as it is that of other countries, to resort to a regulation, the effect of which would go far to balance any disadvantage arising from the loss of the English colonial markets. We import annually upwards of six millions of gallons of West India rum, more than half of which comes from the English colonies; we also import, every year, nearly seven millions of gallons of molasses: as every gallon of molasses yields, by distillation, a gallon of rum; the rum imported, added to that distilled from imported molasses, is probably equal to twelve millions of gallons, which enormous quantity is chiefly consumed by citizens of the United States.

But why has a measure of this importance been so long deferred? The explanation which this question requires cannot be made without some reference to the history of our communications with England since the peace of 1783, as well as to the views and policy of men and parties that have in succession influenced our public affairs.

As, according to the powers of England, notwithstanding the acknowledgment of our independence, neither trade nor intercourse could be carried on between the United States and her dominions, it became necessary after the treaty of peace to pass some act whereby this trade and intercourse might be prosecuted, a bill for this purpose was introduced into the House of Commons by the Administration which concluded the treaty of peace with the United States. The general scope and provisions of the bill correspond with the liberal principles which were manifested in the treaty of peace. They plainly show that the authors of this bill understood that the true basis of the trade and intercourse between nations is reciprocity of benefit; a foundation on which alone the friendly intercourse between men and nations can be permanently established. The preamble of this bill declares "that it was highly expedient that the intercourse between Great Britain and the United States should be established on the most enlarged principles of reciprocal benefit to both countries;" and as, from the distance between them, it would be a considerable time before a treaty of commerce, placing their trade and intercourse on a permanent foundation, could be concluded, the bill, for the purpose of a temporary regulation thereof, provided, that American vessels should be admitted into the ports of Great Britain, as those of other independent States, and that their cargoes should be liable to the same duties only as the same merchandise would be subject to if the same were the property of British subjects, and imported in British vessels; and, further, that the vessels of the United States should be admitted into the English plantations and colonies in America, with *any articles* the growth or manufacture of the United States, and with liberty to export from such colonies and plantations to the United States any merchandise whatsoever, subject to the same duties only as if the property of British subjects, and imported or exported in British vessels; allowing, also, the same bounties, drawbacks, and exemptions, on goods exported from Great Britain to the United States in American vessels, as on the like exportations in British vessels to the English colonies and plantations.

The persons benefited by the English exclusive system of trade and navigation were put in motion by this bill, which was earnestly opposed, and, after a variety of discussion, postponed or rejected. About this period Mr. Pitt, who had supported this bill in the House of Commons, resigned his office of Chancellor of the Exchequer, as his colleagues in Lord Shelburne's administration had before done. The coalition administration that succeeded introduced a new bill, which became a law, vesting in the King and Council authority to make such temporary regulations of the American navigation and trade as should be deemed expedient.

Sundry Orders in Council were accordingly made, whereby a trade and intercourse in American and English vessels between the United States and Great Britain were allowed; and, with the exception of fish oil, and one or two other articles, the produce of the United States, imported into Great Britain, was admitted freely, or subject to the duties payable on the like articles imported in English vessels from the American colonies.

An intercourse and a trade in enumerated articles were also opened between the United States and the English West India colonies, but with a proviso, (the principle whereof is still maintained against us,) whereby American vessels were excluded, and the whole trade confined to English vessels.

After a periodical renewal of these orders for several years, the regulations that they contained were adopted by, and became an act of, Parliament. This act was afterwards modified, and rendered conformable to the provision of Mr. Jay's treaty, the commercial articles of which expired in the year 1803—not long after which date England passed a new act of Parliament concerning the American navigation and trade. This act maintains the exclusion of American vessels from the intercourse between the United States and the English colonies, and confines the same, as former acts and Orders in Council had done, to English vessels; it repealed the settlement of duties pursuant to Mr. Jay's treaty; and, giving up the policy of the enlarged and liberal system of intercourse which had been proposed in Mr. Pitt's bill, it repealed such parts of all former acts and orders as admitted the productions of the United States, either freely, or, on paying the same duties only as were payable on the like articles imported from the English colonies and plantations; and placed all articles the produce of the United States, imported in American vessels, on the same footing as the like articles imported in foreign ships from other foreign countries. This new footing of our trade with England, the importance whereof is well understood by those who are engaged in supplying her markets with masts, spars, timber, naval stores, and pot and pearl ashes, may be regarded as decisive evidence of a complete change of policy concerning the American trade and intercourse—which, however unsatisfactory, as respected the colonial trade, has become more so by the foregoing provision of this act of Parliament.

The policy that manifested itself in the treaty of our independence, and which is seen in the bill to regulate the trade and intercourse between England and the United States, prepared by the Administration that made the Treaty of Peace, was to unite in a firm bond of friendship, by the establishment of trade and intercourse on the solid basis of reciprocal benefit, a people politically separate, living under different governments, but having a common origin, a common language, a common law, and kindred blood; circumstances so peculiar, as not to be

found between any other nation. Instead of this policy, one of a different sort is preferred—one that England has a right to prefer; and against the many evils of which, we must protect ourselves as well as we are able to do. The intricate, countervailing and perplexing code of commercial intercourse, founded in jealousy, and the rival establishments and pursuits of the powers of Europe bordering upon, and constantly interfering with each other, has been adopted and applied to the United States—a people, agricultural more than manufacturing or commercial, placed in another quarter of the globe, cultivating, and proposing to others, an open system of trade and intercourse; and herein, as in many other important discriminations, differing from the nations of Europe, and therefore not fit subjects to which these restrictive and jealous regulations are applicable.

Our policy is, and ever has been, a different one. We desire peace with all nations; and the wars of maritime Europe have taught us that a free system of trade and intercourse would be the best means of preserving it.

With these principles as our guide, at the negotiation of the Treaty of Peace in 1783, our Ministers were authorized to conclude a treaty of commerce with England on this basis; but no treaty was concluded. Afterwards, and when a temporary trade and intercourse were opened by England, looking, as we supposed, to a treaty of commerce, Congress instructed Messrs. Adams, Franklin, and Jefferson, to renew the overture of a treaty of commerce, which was done through the English Ambassador at Paris, in the year 1784; but no correspondent disposition being shown by England, this second overture failed.

The interest and prejudice of those who were benefited by the monopolies and exclusive system of England, were opposed to any treaty with this country, on the principle of reciprocal advantage. The political writers of that day, under the influence of these partial views, or not sufficiently appreciating the true theory of commerce, contended that it would be folly to enter into engagements by which England might not wish to be found in future; that such engagements would be gratuitous; as, according to their interpretation, Congress possessed no power, under the confederation, to enforce any stipulation into which they might enter; that no treaty that could be made would suit all the States; if any were necessary, they should be made with the States separately; but that none was necessary; and those who talked of liberality and reciprocity in commercial affairs, were either without argument or knowledge; that the object of England was, not reciprocity and liberality, but to raise as many sailors and as much shipping as possible.*

This unequal footing of our foreign commerce, and the language made use of by England at this juncture, served still more to increase the public discontent; especially as it was plainly avowed that England ought to render the trade with us as exclusively advantageous to herself as her power would enable her to do. Congress having no power, under the Confederation, to impose countervailing and other corrective regulations of trade, the States separately attempted to establish regulations upon this subject. But, as a part only of the States joined in this measure, and as the laws that were passed for this purpose differed from each other, the experiment completely failed.

In this condition of our navigation and trade, subject to foreign restrictions and exclusion, without a power at home to countervail and check the same, Congress resolved to make another effort to conclude a commercial treaty with England. For this purpose Mr. Adams, since President of the United States, was appointed, and went to England. Mr. Adams resided in England for several years; but found and left the Government unchanged, and equally as before disinclined to make with us a treaty of commerce.

This further disappointment, with the depreciating condition of our navigation and trade, joined to the embarrassment of the public finances, produced what no inferior pressure could have done; it produced the General Convention of 1787, that formed the Constitution of the United States.

Had England entered into a liberal treaty of commerce with the United States, this convention would not have been assembled. Without so intending it, the adherence of England to her unequal and exclusive system of trade and navigation, gave to this country a constitution; and the countervailing and equalizing bill now before the Senate, arising from the same cause, may assist us in establishing and extending those great branches of national wealth and power, which we have such constant and urgent motives to encourage.

The establishment of the Constitution of the United States was coëval with the commencement of the French Revolution. The sessions of the General Convention at Philadelphia, and of the Assembly of Notables at Paris, were in the same year.

Laws were passed by the first Congress assembled under the new constitution, partially to correct the inequality of our navigation and trade with foreign nations; and a small discrimination in duties of impost and tonnage was made for this purpose.

Afterwards, in the year 1794, a number of resolutions on the subject of navigation and trade were moved in the House of Representatives, by a distinguished member of that body. These resolutions had a special reference to the refusal of England to enter into an equal commercial treaty with us, aimed at countervailing her exclusive system. Other and more direct resolutions. bearing on England, were also pro-

* Sheffield, Chalmers, and Knox.

posed by other members, and referred to the inexecution of the Treaty of Peace, and to the recent captures of American vessels by English cruisers, in the American seas.

The policy of these resolutions was doubted; they were therefore strenuously opposed, and the extraordinary mission of Mr. Jay to England suspended their further discussion.

The French Revolution had by this time become the subject of universal attention. War had broken out between France and England. The avowed policy of our own Government to avoid war, and to adhere to a system of neutrality, was much questioned; and for a time it was matter of great uncertainty whether the country would support the neutrality recommended by the President.

The universal dissatisfaction, on account of the commercial system of England, the inexecution of the articles of peace, the numerous captures by orders of the French Government, of our vessels, employed in a trade strictly neutral, combined with our friendly recollections of the services of France, and our good wishes in favor of the effort she professed to be making to establish a free constitution, constituted a crisis most difficult and important.

It was in these circumstances that President WASHINGTON nominated Mr. Jay as Envoy to England. The Senate confirmed the nomination, and the immediate effect was, the suspension of the further discussion of the important resolutions before the House of Representatives.

England seems never to have duly appreciated the true character and importance of this extraordinary measure. France well understood and resented it. Mr. Jay was received with civility, and concluded a treaty with England on all the points of his instructions. When published, it met with great opposition. The article respecting the West India trade had been excluded from the treaty by the Senate, by reason of the inadmissible condition or proviso that was coupled with it—with this exception, it was finally ratified by the President.

Although the treaty did not come up to the expectation of all, in addition to the satisfactory arrangements concerning English debts, the unlawful capture and condemnation of our vessels, and the delivery of the ports, points of very great importance, it contained articles regulating the trade, navigation, and maritime rights of the two countries. No treaty that could have been made with England would, in the highly excited temper of the country, have satisfied it. But, to those whose object it was to prevent the country from taking part in the war between France and England, and to prevail upon it to adhere to a system of impartial neutrality; who, moreover, believed, that the safety, and even liberties of the country were concerned in the adoption of this course, the treaty proved a welcome auxiliary.

It suspended the further agitation of difficult and angry topics of controversy with England; it enabled the Government to persist in, and to maintain, the system of neutrality which had been recommended by the Father of his Country—a policy, the correctness and benefits of which, whatever may have been the disagreement of opinion among the public men of those times, that will now scarcely be doubted.

During the continuance of this treaty, further though ineffectual attempts were made to establish a satisfactory intercourse with the English colonies in the West Indies, and, likewise, to place the subject of impressment on a mutually safe and equitable footing.

The commercial articles of this treaty expired in 1804, no proposal having been made to renew them. A subsequent negotiation took place, but nothing was definitively concluded. The peace of Amiens was of short duration. Another war took place between France and England; no maritime treaty existed between the United States and England; and the manner in which England exercised her power on the ocean; the great interruption of the navigation and trade of neutral nations; the numerous captures of their ships and cargoes under the retaliatory decrees and orders of France and England, with other vexatious occurrences, revived the former angry feelings towards England, and greatly contributed to the late war with that nation.

This war was closed not long after the conclusion of the general peace in Europe; and the Treaty of Ghent was followed by a meagre commercial convention, made at London, and limited, in its duration, to a few years only.

Neither the spirit of the negotiation, nor the scope of the articles, afford any evidence that England is inclined to treat with this country on the only principle on which a commercial treaty with her can be desirable. Her decision on this point seems to be beyond question, as our latest communications inform us that her ancient system will not be changed; and, in case we are dissatisfied with its operation, that England has no objection to our taking any such measures concerning the same, as we may deem expedient—an intimation that puts an end to further overtures on our part. Such is the explanation why the measure now proposed has been so long deferred.

During the Confederation, Congress were without power to adopt it.

The treaty concluded by Mr. Jay, 1794, the relaxation of the navigation and colonial laws, during the war between France and England, and the advantages derived from our neutral trade while this war continued, rendered the measure inexpedient during this period.

And the expectation since entertained that a more enlarged and equal treaty of commerce and navigation, applicable in its provisions to peace as well as war, might be substituted in place of the present commercial convention, has hitherto suspended the interference of Congress.

This expectation must be given up; England

has apprised us of her decision to adhere to her ancient and exclusive system of trade and navigation, and the only alternative before us, is to submit to the regulation of our own navigation by England, or to interpose the authority of the constitution to countervail the same. There can be no hesitation in the choice.

The bill before the Senate, is in nothing unfriendly towards England—it is merely a commercial regulation, to which we are even invited; a measure strictly of self-defence, and intended to protect the legitimate resources of our own country from being any longer made use of, not as they should be, for our benefit, but to increase and strengthen the resources and power of a foreign nation.

Mr. MACON spoke in support of the bill; after which—

The question, "Shall the bill be engrossed and read a third time?" was taken, and determined in the affirmative—yeas 32, nay 1, as follows:

YEAS.—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Lacock, Leake, Macon, Morrill, Morrow, Noble, Otis, Roberts, Ruggles, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAY.—Mr. Eppes.*

THURSDAY, April 9.

SAMUEL W. DANA, from the State of Connecticut, took his seat in the Senate.

On motion by Mr. BARBOUR, it was unanimously agreed to suspend the third rule for conducting business in the Senate, as it respects the honorable Mr. DANA, to wit: "Every member when he speaks shall address the Chair, standing in his place, and when he has finished shall sit down."

Bank of the United States—Application for Authority to appoint Persons to sign its Notes.

Mr. CAMPBELL, from the same committee, to whom was recommended the memorial of the President and Directors of the Bank of the United States, reported a bill supplementary to the act, entitled "An act to incorporate the subscribers to the Bank of the United States," and the bill was read twice by unanimous consent, and considered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported it to the House; and the bill was amended. Mr. C. also laid on the table the following document:

TREASURY DEPARTMENT, *April 7*, 1818.

SIR: I have been informed by the President of the Bank of the United States, that the board of directors have applied to the Congress of the United States for permission to issue bills and notes signed by other persons than the president and cashier of the bank. The intimate connection which necessarily exists between that institution and the department of the Executive Government confided to my direction, may render it excusable on my part to present to the Committee on Finance, under whose consideration the subject has been placed by the Senate, some of the reasons which appear to be necessarily connected with the application. It is not my intention to urge the sanction of the committee to the particular modification sought by the bank. I shall attempt only to satisfy the committee that, under the existing provisions of the charter, as construed by the corporation, it is impossible to put into circulation an amount of bills of suitable denominations to supply the necessary and indispensable demands of the community.

The president and cashier of the bank have to sign and countersign all the bills of the bank and of its various offices. They have, in addition to the ordinary duties of president and cashier of a bank, to perform all the duties of commissioners of loans for the State of Pennsylvania, and of agents for the payment of pensioners of every description for that State. They are necessarily charged with the general superintendence of all the offices established by the bank, from the District of Maine to the State of Louisiana, involving a most extensive correspondence, and imposing upon them an examination of the weekly returns of those offices. This examination is necessarily imposed upon those officers, who are bound to watch over the interests of the bank generally, and to supply the wants of the different officers; to transmit specie where there is a demand for it, and to withdraw it from points where, from the course of trade or other causes, it may have temporarily accumulated. The duty of transmitting the public funds wherever required within the United States demands and receives their unremitted attention. From the view here presented of the various and important duties assigned to them by the charter, many of which are so intimately connected with the Government as to constitute them highly important officers, it will be readily perceived that but a very small portion of their time can be devoted to the mechanical labor of signing bills and notes. It may, indeed, be said that the corporation, having the power of appointing such *officers* and *servants* as the interest of the institution may require, may appoint other officers, who may be charged with the superintendence of the interests of the institution generally, and of course with the correspondence and distribution of the capital of the bank among the different offices, according to their various wants and necessities arising out of the course of trade, or any other cause. Such a course might, indeed, be pursued; but it would be an entire inversion of the established principle of action, not only in institutions of this nature, but of right reason, when applied to all associations whatsoever.

The signing of bills and notes is a mere mechanical act. The superintendence of an institution so extensive and complicated, intimately con-

* As revolted colonies, we lost the rights of trade with the British dominions, and at the restoration of peace it was found impracticable to recover the right in full—the trade to her colonies being the exception, and the direct trade to her West Indies totally interdicted. Negotiation, though tried under every President, failed to obtain it: legislation was resorted to, of which this bill was one instance, but still without effect. The interdiction remained until the year 1830, when, under the administration of President Jackson, it was removed, and the direct trade with the British West Indies placed upon the just and fair principles of reciprocity which have prevailed ever since.

nected not only with the Government, but with all the wants and conveniences of society, especially influencing in a very high degree the commercial transactions of the nation, requires intellects of more than ordinary elevation, and information as various as the wants and conveniences of civilized society. To metamorphose the highest officers of the institution into mere machines, the operations of which are to be confined to tracing certain characters infinitely repeated, whilst subordinate *officers* or *servants* are invested with duties requiring the highest order of intellect and the most extensive degree of information, would indeed be an inversion of the established ideas of the moral fitness of things.

It is not my intention, nor is it the wish of the bank, to relieve the president and cashier from the mechanical labor of signing bills. This duty will always be performed by them, as far as a due attention to their other and more important duties will permit.

The reasons and facts which I have presented, in order to prove that it is impossible for the president and cashier to sign the bills necessary to the wants and convenience of the community, are supported by the experience of the bank. Twenty offices have been established, and applications for others remain suspended from the impossibility of furnishing them with bills for circulation. Two of those which were organized more than six months back, have not yet been supplied with bills to commence operations. Several of those established in the Western country have been so scantily supplied as to render their operations extremely circumscribed. That established at Augusta, in Georgia, will probably be abandoned, on account of the impossibility of supplying it with bills to make the employment of capital profitable.

I remain, with sentiments of the highest respect, your most obedient and very humble servant,

WM. H. CRAWFORD.

Hon. G. W. CAMPBELL, *Chairman Com. Finance.*

FRIDAY, April 10.

Statistics of the United States.

Mr. BARBOUR, from the committee to whom was referred the resolution authorizing a subscription of five hundred copies of Statistical Annals, proposed to be published by Adam Seybert, and the purchase of a certain number of copies of a Statistical view of the Commerce of the United States, by Timothy Pitkin, made a report, accompanied by a bill, authorizing a subscription for the Statistical Annals by Adam Seybert, and the purchase of Pitkin's Statistics; and the report and bill were read, and the bill passed to a second reading.

The report is as follows:

That the manuscript of Dr. Seybert's work has been submitted to their inspection, and, in their opinion, it combines a mass of various and valuable facts and materials, collected with thorough diligence from authentic documents, lucidly and conveniently arranged and methodized. Its main object appears to be to furnish complete information as to the past and present state of the population, navigation, commerce, manufactures, army, navy, public lands, and finances of the United States, and a series of important facts in relation to these and other connected subjects, is condensed into tabular forms and statements, exhibiting in one view an entire and comparative history of each subject. To this work, much time, industry, and ability must have been devoted; and it forms a vast depository of information, the whole of which is useful and interesting, and some of which, from the conflagration of the public offices, and other untoward events, is now, perhaps, nowhere else preserved. It must be apparent, then, that this work must be deemed necessary and acceptable to every functionary of the Government of the United States, either in its administrative or legislative departments. It was principally for their use the work was designed. It will expedite and facilitate the performance of their respective duties, and it is therefore natural and proper that it should receive their protection and encouragement. It appears to the committee altogether hopeless that the publication of these Statistical Annals can otherwise be obtained. It will not be undertaken by the author at his own risk. From the variety of numerical tables, the expense of printing would considerably exceed that of ordinary books; and as profit cannot be expected from the sale of a work, which, from its nature, can never be in a certain sense popular, there is no inducement to stimulate the enterprise of a bookseller. Works of a similar description in other countries have frequently been published at the national charge; and surely there is something in the nature of our liberal institutions that ought to induce us, as freely as any other nation, to give publicity to all we have done, as fully to develop the principles of our policy, and to ascertain as clearly the causes of our prosperity. And it may be added, that the best mode of deriving benefit from experience, of rendering what is valuable in our system of political economy permanent, and of reforming what is injudicious and erroneous, can best be suggested by a systematic collation of the facts and principles on which that system is established.

The most of the foregoing remarks are likewise strictly applicable to Mr. Pitkin's published work, entitled "Commercial Statistics of the United States." It is a work of undoubted merit and utility; its facts are drawn from authentic official documents, and its numerical tables and calculations exhibit great industry and accuracy of research. It is understood that, intrinsically valuable as this work is, it has produced little or no profit to the publisher or the author; and it appears to the committee it would be unjust and ungrateful to distinguish one of these works by the praise and patronage of Congress, and leave the other unnoticed and unrewarded. The committee are therefore of opinion that a subscription for both these works ought to be authorized, and report a bill for that purpose.

SATURDAY, April 11.

Five o'clock in the Evening.

On motion by Mr. MACON, a committee was appointed on the part of the Senate, jointly with such committee as may be appointed on the part of the House of Representatives, to wait on the President of the United States, and notify him that, unless he may have any further communication to make to the two Houses of Congress, they are ready to adjourn. Mr. MACON

and Mr. KING were appointed the said committee.

A message from the House of Representatives informed the Senate that the House, having finished the business before them, are about to adjourn.

Mr. MACON reported from the joint committee, that they had waited on the President of the United States, who informed them that he had no further communication to make to the two Houses of Congress.

Ordered, That the Secretary inform the House of Representatives that the Senate, having finished the Legislative business before them, are about to adjourn.

Whereupon, the PRESIDENT adjourned the Senate to meet on the third Monday in November next.

FIFTEENTH CONGRESS.—FIRST SESSION.

PROCEEDINGS AND DEBATES

IN

THE HOUSE OF REPRESENTATIVES.*

MONDAY, December 1, 1817.

This being the day appointed by the Constitution of the United States for the meeting of Congress, the following members of the House of Representatives appeared, produced their credentials, and took their seats, to wit:

From New Hampshire—Josiah Butler, Clifton Clagett, Salma Hale, Arthur Livermore, John F. Parrott, and Nathaniel Upham.

From Massachusetts—Benjamin Adams, Samuel C. Allen, Walter Folger, jr., Joshua Gage, John Holmes, Marcus Morton, Jeremiah Nelson, Benjamin Orr, Albion K. Parris, Nathaniel Ruggles, Zabdiel Sampson, Henry Shaw, Nathaniel Silsbee, Solomon Strong, and Ezekiel Whitman.

From Rhode Island—John L. Boss, jr.

From Connecticut—Uriel Holmes, Ebenezer Huntingdon, Jonathan O. Mosely, Timothy Pitkin, Samuel B. Sherwood, Nathaniel Terry, and Thomas S. Williams.

From Vermont—Heman Allen, Samuel C. Crafts,

* LIST OF REPRESENTATIVES.

New Hampshire.—Josiah Butler, Clifton Clagett, Salma Hale, Arthur Livermore, John F. Parrott, Nahaniel Upham.

Massachusetts.—Benjamin Adams, Samuel C. Allen, Timothy Fuller, Walter Folger, jr., Joshua Gage, John Holmes, Elijah H. Mills, Jonathan Mason, Marcus Morton, Jeremiah Nelson, Benjamin Orr, Albion K. Parris, Thomas Rice, Nathaniel Ruggles, Zabdiel Sampson, Henry Shaw, Nathaniel Silsbee, Solomon Strong, Ezekiel Whitman, John Wilson.

Rhode Island.—John L. Boss, jr., James B. Mason.

Connecticut.—Uriel Holmes, Ebenezer Huntingdon, Jonathan O. Mosely, Timothy Pitkin, Samuel B. Sherwood, Nathaniel Terry, Thomas S. Williams.

Vermont.—Heman Allen, Samuel C. Crafts, William Hunter, Orasmus C. Merrill, Charles Rich, Mark Richards.

New York.—Oliver C. Comstock, Daniel Cruger, John P. Cushman, John R. Drake, Benjamin Ellicott, Josiah Hasbrouck, John Herkimer, Thomas H. Hubbard, William Irving, Dorrance Kirtland, Thomas Lawyer, David A. Ogden, John Palmer, James Porter, John Savage, Philip J. Schuyler, Tredwell Scudder, John C. Spencer, Henry R. Storrs, James Tallmadge, jr., John W. Taylor, Caleb Tompkins, George Townsend, Peter H. Wendover, Rensellaer Westerlo, James W. Wilkin, Isaac Williams.

New Jersey.—Ephraim Bateman, Benjamin Bennett, Joseph Bloomfield, Charles Kinsey, John Linn, Henry Southard.

Pennsylvania.—William Anderson, Henry Baldwin, Andrew Boden, Isaac Darlington, Joseph Heister, Joseph Hopkinson, Samuel D. Ingham, William Maclay, William P. Maclay, David Marchand, Robert Moore, John Murray, Alexander Ogle, Thomas Patterson, Levi Pawling, Thomas J. Rodgers, John Ross, John Sergeant, Adam Seybert, Jacob Spangler, Christian Tarr, James M. Wallace, Thomas Wilson.

Delaware.—Willard Hall, Louis McLane.

Maryland.—Thomas Culbreth, Thomas Bayley, John C. Herbert, Peter Little, George Peter, Philip Reed, Samuel Ringgold, Samuel Smith, Philip Stuart.

Virginia.—Archibald Austin, William Lee Ball, Philip P. Barbour, Burwell Bassett, William A. Burwell, Edward Colston, John Floyd, Robert S. Garnett, Peterson Goodwyn, James Johnson, William J. Lewis, William McCoy, Charles F. Mercer, Hugh Nelson, Thomas M. Nelson, Thomas Newton, James Pindall, James Pleasants, Alexander Smyth, George F. Strother, Henry St. George Tucker, John Tyler.

North Carolina.—Joseph H. Bryan, Weldon N. Edwards, Daniel M. Forney, Thomas H. Hall, George Mumford, James Owen, Lemuel Sawyer, Thomas Settle, Jesse Slocumb, James S. Smith, James Stewart, Felix Walker, Lewis Williams.

South Carolina.—Joseph Bellinger, Elias Earle, James Ervin, William Lowndes, Henry Middleton, Stephen D. Miller, William Nesbitt, Eldred Simkins, Sterling Tucker.

Georgia.—Joel Abbott, Thomas W. Cobb, Zadock Cook, Joel Crawford, John Forsyth, William Terrell.

Kentucky.—Richard C. Anderson, jr., Henry Clay, Joseph Desha, Richard M. Johnson, Anthony New, Tunstall Quarles, jr., George Robertson, Thomas Speed, David Trimble, David Walker.

Tennessee.—William G. Blount, Thomas Claiborne, Thomas Hogg, Francis Jones, George Washington L. Marr, John Rhea.

Ohio.—Levi Barber, Philemon Beecher, John W. Campbell, William H. Harrison, Peter Hitchcock, Samuel Herrick.

Mississippi.—George Poindexter.

Louisiana.—Thomas Bolling Robertson.

Indiana.—William Hendricks.

Illinois Territory.—Nathaniel Pope, *Delegate.*

Missouri Territory.—John Scott, *Delegate.*

William Hunter, Orsamus C. Merrill, Charles Rich, and Mark Richards.

From New York—Oliver C. Comstock, Daniel Cruger, John P. Cushman, John R. Drake, Benjamin Ellicott, Josiah Hasbrouck, John Herkimer, Thomas H. Hubbard, William Irving, Dorrance Kirtland, Thomas Lawyer, John Palmer, James Porter, John Savage, Philip J. Schuyler, Tredwell Scudder, John C. Spencer, Henry R. Storrs, James Tallmadge, jr., John W. Taylor, Caleb Tompkins, George Townsend, Peter H. Wendover, Rensellaer Westerlo, James W. Wilkin, and Isaac Williams.

From New Jersey—Benjamin Bennett, Joseph Bloomfield, Charles Kinsey, John Linn, and Henry Southard.

From Pennsylvania—William Anderson, Andrew Boden, Isaac Darlington, Joseph Heister, Joseph Hopkinson, Samuel D. Ingham, William P. Maclay, David Marchand, Robert Moore, John Murray, Thomas Patterson, Levi Pawling, Adam Seybert, Jacob Spangler, Christian Tarr, James M. Wallace, John Whiteside, and William Wilson.

From Delaware—Louis McLane.

From Maryland—Thomas Culbreth, John C. Herbert, Peter Little, George Peter, Philip Reed, Samuel Ringgold, Samuel Smith, and Philip Stuart.

From Virginia—William Lee Ball, Philip P. Barbour, Burwell Bassett, William A. Burwell, Edward Colston, Robert S. Garnett, William McCoy, Charles F. Mercer, Hugh Nelson, Thomas Newton, James Pindall, James Pleasants, Alexander Smyth, George F. Strother, Henry St. George Tucker, and John Tyler.

From North Carolina—Weldon N. Edwards, Daniel M. Forney, Thomas H. Hall, George Mumford, James Owen, Lemuel Sawyer, Thomas Settle, Jesse Slocumb, James S. Smith, Felix Walker, and Lewis Williams.

From South Carolina—Joseph Bellinger, William Lowndes, Henry Middleton, Stephen D. Miller, and Sterling Tucker.

From Georgia—Joel Abbott, Thomas W. Cobb, Zadock Cook, Joel Crawford, John Forsyth, and William Terrell.

From Kentucky—Richard C. Anderson, jr., Henry Clay, Joseph Desha, Richard M. Johnson, Anthony New, Tunstall Quarles, jr., George Robertson, Thomas Speed, David Trimble, and David Walker.

From Tennessee—William G. Blount, Francis Jones, George W. L. Marr, and John Rhea.

From Ohio—Levi Barber, Philemon Beecher, John W. Campbell, William Henry Harrison, and Samuel Herrick.

From Louisiana—Thomas B. Robertson.

From Indiana—William Hendricks.

Election of Speaker, &c.

A quorum, consisting of a majority of the whole number of members, being present, the House then proceeded to the choice of a SPEAKER. On counting the votes, it appeared that of 147 votes given in, there were for HENRY CLAY, 140; for SAMUEL SMITH, 6; blank, 1.

So that Mr. CLAY was declared to be duly elected Speaker; and, being conducted to the Chair, the usual oath was administered to him, by Mr. BASSETT; when the Speaker made his acknowledgments to the House in the following terms:

"If we consider, gentlemen, the free and illustrious origin of this assembly; the extent and magnitude of the interests committed to its charge; and the brilliant prospects of the rising confederacy, whose destiny may be materially affected by the legislation of Congress, the House of Representatives justly ranks amongst the most eminent deliberative bodies that have existed. To be appointed to preside at its deliberations, is an exalted honor of which I entertain the highest sense; and I pray you to accept, for the flattering manner in which you have conferred it, my profound acknowledgments.

"If I bring into the Chair, gentlemen, the advantage of some experience of its duties, far from inspiring me with undue confidence, that experience serves only to fill me with distrust of my own capacity. I have been taught by it, how arduous those duties are, and how unavailing would be any efforts of mine to discharge them, without the liberal support and cheering countenance of the House. I shall anxiously seek, gentlemen, to merit that support and countenance, by an undeviating aim at impartiality, and at the preservation of that decorum, without the observance of which, the public business must be illy transacted, and the dignity and the character of the House seriously impaired."

The members having been severally qualified by taking the oath to support the constitution, the House proceeded to elect a clerk. On counting the ballots, it appeared that 144 votes were given in, all of which were for THOMAS DOUGHERTY, who resumed his place as Clerk of the House.

THOMAS CLAXTON was then reappointed Doorkeeper, BENJAMIN BURCH Assistant Doorkeeper, and THOMAS DUNN Sergeant-at-Arms, without opposition.

After the usual incipient proceedings, and interchanging messages with the Senate, the House adjourned to 12 o'clock to-morrow.

TUESDAY, December 2.

Several other members, to wit: from New Jersey, EPHRAIM BATEMAN; from Virginia, WILLIAM J. LEWIS; and from Tennessee, THOMAS CLAIBORNE and THOMAS HOGG, appeared, produced their credentials, were qualified, and took their seats.

Mr. HOLMES, of Massachusetts, from the joint committee appointed yesterday to wait on the President of the United States, reported, that the committee had performed that service, and that the President answered, that he would make a communication to the two Houses of Congress to-day, at 12 o'clock.

A Message in writing, was then received from the PRESIDENT OF THE UNITED STATES, which was read and referred to the Committee of the Whole on the state of the Union; and five thousand copies thereof ordered to be printed for the use of the members of the House. [For this Message, see Senate proceedings of this date, page 4.]

WEDNESDAY, December 3.

Several other members, to wit: from Penn-

sylvania, JOHN SERGEANT; from Virginia, PETERSON GOODWYN and THOMAS M. NELSON; and from South Carolina, WILSON NESBITT, appeared, produced their credentials, were qualified, and took their seats.

Reference of the Message.

On motion of Mr. TAYLOR, of New York, the House resolved itself into a Committee of the Whole on the state of the Union, Mr. SMITH, of Maryland, being called to the Chair.

The President's Message was the subject of consideration.

Mr. TAYLOR moved a series of resolutions, embracing the following references of various parts of the Message:

"*Resolved*, That so much of the Message of the President of the United States as relates to the subject of Foreign Affairs, and to our commercial intercourse with British Colonial ports, be referred to a select committee."

The first resolution having been read for consideration, Mr. CLAY (the Speaker) moved to amend the same by adding to the end thereof the following words:

"And that the said committee be instructed to inquire whether any, and if any, what provisions of law are necessary to insure to the American colonies of Spain a just observance of the duties incident to the neutral relation in which the United States stand, in the existing war between them and Spain."

Mr. CLAY said, that his presenting at so early a period of the session this subject to the consideration of the House, was in consequence of certain proceedings which he had seen represented in the public prints, as having taken place before certain of our courts of justice. Two or three cases bearing on this subject had come to his knowledge, which he wished to state to the House. The first had occurred at Philadelphia, before the circuit court of the United States held in that city. The circumstances of the case, for which however he did not pretend to vouch, having seen them through the channel already indicated, were these—if they were incorrectly stated, he was happy that a gentleman had taken his seat this morning from that city, who would be able to correct him: that nine or ten British disbanded officers had formed in Europe the resolution to unite themselves with the Spanish patriots in the contest existing between them and Spain; that to carry into effect this intention they had sailed from Europe, and in their transit to South America had touched at the port of Philadelphia; that, during their residence in Philadelphia, wearing, perhaps, the arms and habiliments of military men, making no disguise of their intention to participate in the struggle, they took passage in a vessel bound to some port in South America; that, a knowledge of this fact having come to the ears of the public authorities, or, perhaps at the instigation of some agent of the Spanish Government, a prosecution was commenced against these officers, who, from their inability to procure bail, were confined in prison. If, said Mr. C., the circumstances attending this transaction be correctly stated, it becomes an imperious duty in the House to institute the inquiry contemplated by the amendment which I have proposed. That this was an extraordinary case was demonstrated by the fact of the general sensation which it had excited on the subject in the place where it had occurred. Filled as that respectable and popular city is with men differing widely on political topics, and entertaining various views of political affairs, but one sentiment, Mr. C. said, prevailed on this subject, which was favorable to the persons thus arraigned. With regard to the conduct of the court on this occasion, he would say nothing. The respect which, whilst he had a seat on this floor, he should always show to every department of the Government; the respect he entertained for the honorable Judge who had presided, forbade him pronouncing the decision of that court to have been unwarranted by law. But he felt himself perfectly sustained in saying, that if the proceeding was warranted by the existing law, it was the imperious duty of Congress to alter the law in this respect. For what, he asked, was the neutral obligation which one nation owed to another engaged in war? The essence of it is this: that the belligerent means of the neutral shall not be employed in the war in favor of either of the parties. That is the whole of the obligation of a third party in a war between two others. It certainly does not require of one nation to restrain the belligerent means of other nations. If those nations choose to permit their means to be employed in behalf of either party, it is their business to look to it, and not ours. Let the conduct of the persons prosecuted be regarded in its most unfavorable light; let it be considered as the passage of troops through our country, and there was nothing in our neutral obligations forbidding it. The passage of troops through a neutral country, according to his impressions, was a question depending on the particular interest, quiet, or repose of the country traversed, and might be granted or refused, at its discretion, without in any degree affecting the obligations of the neutral to either of the parties engaged in the controversy. But surely, Mr. C. said, this was not a case of the passage of troops, the persons apprehended not being in sufficient number; not organized or equipped in such a manner as, under any construction, to constitute a military corps.

On this case he would detain the House no longer, he said; for he was satisfied they could not but agree with him, if the law justified the proceeding that had taken place, that law ought to be immediately amended. Other cases had occurred in which it appeared to him it became the Congress to interpose its authority. Persons sailing under the flag of the provinces had been arraigned in our courts, and tried for piracy; in one case, after having been arraign-

ed, tried, and acquitted of piracy, the same individuals, on the instigation of a Spanish officer or agent, had been again arraigned for the same offence. The gentleman from Massachusetts would correct him if he was wrong, for the case had occurred in the town of Boston. We admit the flag of these colonies into our ports, said Mr. C.; we profess to be neutral; but if our laws pronounce that the moment the property and persons under that flag enter our ports, they shall be seized, the one claimed by the Spanish Minister or Consul as the property of Spain, and the other prosecuted as pirates, that law ought to be altered if we mean to perform our neutral professions. I have brought the subject before this House thus promptly, said Mr. C., because I trust that in *this House* the cause will find justice; that, however treated elsewhere, on this floor will be found a guardian interest attending to our performance of the just obligations of neutrality. Hitherto, he said, whatever might have been our intentions, our acts have all been on the other side. From the proclamation of 1815, issued to terminate an expedition supposed to be organizing in Louisiana—an expedition existing only in the mind of the Chevalier de Onis—down to the late act, whether the measure was a proper one or not he did not say; his confidence in the Executive led him to suppose it was adopted on sufficient grounds—down to the order for suppressing, as it was called, the establishments at Amelia Island and Galveston—all the acts of the Government had been on one side; they all bore against the colonies, against the cause in which the patriots of South America were arduously engaged. It became us, he said, to look to the other side, honestly intending neutrality, as he believed we did. Let us recollect the condition of the patriots; no minister here to spur on our Government, as was said in an interesting, and it appeared to him a very candid work recently published in this country, respecting the progress of the South American revolution; no Minister here to be rewarded by noble honors in consequence of the influence he is supposed to possess with the American Government. No; their unfortunate case, Mr. C. said, was what ours had been in the years 1778 and 1779—their Ministers, like our Franklins and Jays at that day, were skulking about Europe imploring inexorable legitimacy one kind look—some aid to terminate a war afflicting to humanity. Nay, their situation was worse than ours; for we had one great and magnanimous ally to recognize us, but no nation had stepped forward to acknowledge any of these provinces. Such disparity between the parties, Mr. C. said, demanded a just attention to the interests of the party which was unrepresented; and if these facts which he had mentioned, and others which had come to his knowledge, were correct, they loudly demanded the interposition of Congress. He trusted the House would give the subject their attention, and show that here, in this place, the obligations of neutrality would be strictly regarded in respect to Spanish America.

Mr. SERGEANT rose in consequence of the gentleman having appealed to him, not to enter into any discussion of the question presented by the amendment, but to speak of the facts which were within his knowledge. The statement made by the Speaker was substantially correct; it was also correct that the circumstance had occasioned considerable sensation among all parties in the city of Philadelphia. Mr. S. recapitulated the principal facts, adding, that the vessel in which these persons embarked was laden with munitions of war. As respected the views and intentions of the persons apprehended, Mr. S. said, he believed they had neither any intention nor any idea of violating the laws of the United States, and that their conduct had been perfectly decorous and correct. The court had thought they had offended against the act of Congress of the last session; or were so far at least of that opinion, that they thought it necessary to detain them. The bail demanded was not high; but they were not able to procure it, and were, therefore, committed to jail. It was because of the correct deportment of these persons, that the sentiment in their favor had been so general—but no complaint was made of the court, for which the same respect was entertained with which the Speaker himself had regarded it. He had mentioned these facts only that the House might, when the time came for acting on it, be aware of the construction put on the existing law, so far as any had been given.

The amendment moved by Mr. CLAY to the first resolution was agreed to without opposition.

THURSDAY, December 4.

Three other members, to wit: from Pennsylvania, HENRY BALDWIN; from Maryland, THOMAS BAYLEY; and from Virginia, JAMES JOHNSON, appeared, produced their credentials, were qualified, and took their seats.

FRIDAY, December 5.

Two other members, to wit: from Pennsylvania, WILLIAM MACLAY, and from Virginia, BALLARD SMITH, appeared, produced their credentials, were qualified, and took their seats.

Spanish American Provinces.

Mr. ROBERTSON, of Louisiana, offered the following resolution for consideration:

Resolved, That the President of the United States be requested to lay before the House of Representatives such information as he may possess and think proper to communicate, relative to the independence and political condition of the provinces of Spanish America.

The resolution having been read—

Mr. ROBERTSON said that he supposed there would be no objection to the adoption of the resolution which he had just submitted to the

consideration of the House. He found, from the late Message of the President, that the attention of the House, as well as of the nation, had been, in a general way, directed to the situation of the provinces of Spanish America. The President had observed, too, and very truly, that the citizens of the United States sympathized in the events which affected their neighbors. Mr. R. said that, as far back as the year 1811, this subject had excited considerable interest; that a committee had been raised; the declaration of independence and the constitution of Venezuela, with other information, laid before it by the then President, and a report on them submitted to the House. The report, among other things, expressed much good will towards the Venezueleans, and an intention to acknowledge their independence whenever that independence should be achieved. From that time till the present, silence had been observed in regard to the affairs of that part of the continent. The reason was obvious; we were soon after engaged in war with England, and since the peace, our own pressing concerns had occupied our attention.

The President has spoken, sir, of the interest and the sympathy we feel in the affairs of our southern neighbors. Perhaps it may be said, with truth, that no subject excites, throughout the civilized world, a stronger interest than the contest in which the provinces of Spanish America are engaged. Every wind that blows wafts to our shores the schemes and speculations of European statesmen and politicians; from the frozen regions of the North to the milder climes of the Peninsula, it elicits remark and commands attention. Even Alexander, he who indites epistles about peace and bible societies, while he whets the sword of battle and prepares the weapons of destruction; he, it is said, is about to furnish his Cossacks to add to the horrors of, as it is already called, the war of death. The thunders of the Pope, too, the head of the Christian church, began to be heard, and no doubt we shall soon see his anathemas giving up the people of South America, body and soul, to the punishments due here and hereafter to the crimes of rebellion and republicanism. If, then, to governments across the Atlantic, the situation of this people be thus interesting, surely it is not a matter of surprise that the citizens of the United States should with some solicitude turn their attention towards them. Every Republican in the United States must lament their disasters and exult in their triumphs; they do but follow the example we have set them; we owe our glory and our fame to resistance to arbitrary power, and the people of Spanish America, and all others groaning under oppression, must owe their elevation and worth of character to the same circumstance. They do but follow in our footsteps; it is in vain to deny or disguise the fact; it is known throughout the world—whatever of injury despotism or priestcraft have sustained, whether from the revolution of France, or that which now, I hope, flourishes in our hemisphere, is laid to the account of our glorious Revolution, and the excellent principles of our constitution.

It is to be regretted, Mr. Speaker, that our acquaintance with the people of Spanish America is not more particular and intimate than it is: we entertain but one sentiment about them—our feelings are all in unison; yet we differ and dispute on a variety of points, which it is desirable should be no longer suffered to remain in doubt. Mexico, Peru, Chili, Buenos Ayres, Venezuela, New Granada, are they independent? Are they struggling for independence, or have they yielded to their European tyrant? Have they made known their situation to the Executive Department? Have they demanded to be recognized as independent sovereignties? Do they govern themselves? elect their agents, legislature, executive, and judiciary? lay and collect taxes, raise and support armies, and navies? It is possible that these facts are in the possession of the President; it is very well known that there have been agents, men of high respectability, sent publicly from the governments of Venezuela, New Granada, Buenos Ayres, and Mexico, to this country, and, for any thing I know to the contrary, from other provinces. It is probable that they have not remained silent, but whatever they may have said has not been made known to this House, or to this nation. As our Government is essentially popular, I wish information to be given to the people. I wish for information, that our judgments may sanction sentiments our hearts so warmly approve. I do not mean, Mr. Speaker, to commit myself in regard to my future course—it must, to a certain extent, depend upon circumstances. This House will act as circumstances may require, but for myself, I have no hesitation to say, that if it shall appear that the provinces of Spanish America, or any of them, are really independent, no earthly consideration shall prevent me, in my public character, from acknowledging them as sovereign States.

Mr. FORSYTH said he was too well acquainted with the temper of the people of the United States on this subject, to oppose any motion for inquiring into it; such was not his object; but he knew from experience, that some inquiries were proper and some dangerous. In this case, he thought that all which could be known ought to be known; but he suggested to the mover of the resolution, whether it was not too broad in its call on the Executive, and whether it ought not to contain the usual qualification of excepting such information as the President might deem the communication of incompatible with the public interest. Mr. F. presumed the President had communicated all that he knew, or all that he wished Congress to know on the subject; and as it was usual in requesting information of the Executive, to ask for such only as the public interest would, in his opinion, permit to be disclosed, he proposed so to modify this motion; in which shape only could he consent to vote for it.

Mr. ROBERTSON signified his ready assent to Mr. FORSYTH's proposition.

The resolution passed *nem. con.* as modified, and a committee of two was appointed to wait on the President with it.

The House adjourned to Monday.

MONDAY, December 8.

Several other members, to wit: from Massachusetts, JONATHAN MASON; from Virginia, ARCHIBALD AUSTIN and JOHN FLOYD; and from Ohio, PETER HITCHCOCK, appeared, produced their credentials, were qualified, and took their seats.

NATHANIEL POPE from the Illinois Territory, and JOHN SCOTT, from the Territory of Missouri, having also appeared and produced their credentials as Delegates to represent the said Territories in the Fifteenth Congress of the United States, were also qualified, and took their seats.

Amelia Island and Spanish Patriots.

Mr. RHEA offered for consideration the following resolution:

Resolved, That the President be requested to lay before the House of Representatives any information he may possess, and think proper to communicate, relative to the proceedings of certain persons who took possession of Amelia Island, at the mouth of the St. Mary's River, near the boundary of the State of Georgia, in the summer of the present year, and made an establishment there; and also any information he hath, and may think proper to communicate, relative to an establishment made, at an earlier period, by persons of the same description, in the Gulf of Mexico, at a place called Galveston, within the limits of the United States, as we contend, under the cession of Louisiana; together with the reasons inducing him to issue orders to suppress the said establishments.

Mr. RHEA said that the establishments referred to in the resolution he had just offered, had already excited much attention throughout the country, which would be still more attracted to that point by the order given to suppress them. His object in offering this motion was to obtain such information as might satisfy the minds of the American people on the expediency of that measure.

Mr. FORSYTH moved to strike out the last clause of the proposed resolution. It would be an extraordinary course for the House to ask for the reasons of the measure in question, when they were distinctly and satisfactorily avowed in the Message of the President. To call upon him, after that exposition, to explain the reasons for his conduct, would be to cast a severe reflection on the Executive, as implying dissatisfaction at the reasons already given. For his own part, Mr. F. said, the conduct of the Executive appeared to him to have been perfectly correct; but he had no objection to any information desired, if asked for, unconnected with the clause he had excepted to.

Mr. HUGH NELSON, of Virginia, twice addressed the House on the main subject of the resolution, but, being interrupted in his remarks by incidental circumstances, we have connected his observations in the following report of the substance of them. A few remarks are added, which the interruptions referred to prevented him from making. Mr. N. was decidedly in favor of the motion. Like the honorable SPEAKER, who had alluded to this matter when in Committee of the Whole the other day, Mr. N. said he felt his confidence in the Executive not diminished; like him, he felt confident that the measure of the suppression of these establishments, was founded, in their opinion, in a just sense of propriety, and in a desire to promote the public weal: and he believed that, for the satisfaction of the public, and for a just vindication of the Executive, these documents should be exhibited. I cannot but believe, said he, that the public will see, that, in this measure, the conduct of the Government has been marked by a due respect to the rights of the Spanish provinces, and a vigilant and prompt attention to the rights and interests of our own country. It is the best interest of the Spanish provinces, embarked in the noble cause of emancipating themselves, to give evidence to the world, that all their proceedings are the result of just and sound principles; to repel and refute, by a high-minded and magnanimous conduct, the malignant and calumnious representations which would place them in the grade of savages and barbarians. A just regard to the opinions of the civilized world; a due estimate of their own dignity and self-respect, will lead them to disclaim all connection with these piratical establishments. Their own interest would lead them to cooperate in the extinction of these hordes of buccaneers. There was a time when the union of McGregor, distinguished by his gallant exertions in the patriot cause of the Spanish provinces, with their naval commander, Aury, and supported by some of the high-minded and gallant spirits of our own late military establishment, might have led to the opinion that it was a bold and valorous enterprise, to wrest from their oppressors a portion of their territory, and bravely to wage the war in the assailable dominions of the Spanish monarch. But the moment for that opinion has gone by—McGregor has abandoned them. Posey and the other gallant spirits of this country, no more give color to the enterprise. And have they not themselves given further proofs, if proofs are wanting, that they are but a horde of buccaneers, invading our own territory, and plundering our own citizens? See the accounts from Savannah. To believe that these settlements are sanctioned by the Patriots, would be to degrade them from the high and dignified station which they hold in our estimation. That the Patriots should themselves countenance such establishments, would be further to descend from the highest pinnacle of honorable elevation, to the lowest abyss of humiliation and contempt. Men embarked in the glorious and magnanimous struggle for freedom and the rights

of man, can never stoop to the condition of buccaneers, banditti, and pirates.

Mr. RHEA having accepted Mr. FORSYTH's proposed amendment as part of his own motion, the main question was taken on the resolution, and decided in the affirmative without a division; and a committee ordered to be appointed to wait on the President therewith.

TUESDAY, December 9.

Another member, to wit: ELIAS EARLE, from the State of South Carolina, appeared, produced his credentials, was qualified, and took his seat.

WEDNESDAY, December 10.

Representative Qualifications.

Mr. FORSYTH, of Georgia, offered for consideration the following resolution, to obtain a decision on a question raised by a memorial yesterday presented, contesting the election of a member from Ohio, and which Mr. F. considered of great importance:

Resolved, That the Committee of Elections be instructed to inquire and report what persons elected to serve in the House of Representatives have accepted or held offices under the Government of the United States since the 4th day of March, 1817, and how far their right to a seat in this House is affected thereby.

The adoption of this resolution was warmly opposed by Mr. TAYLOR, of New York, and Mr. JOHNSON, of Kentucky, and was also opposed by Mr. SEYBERT, of Pennsylvania, Mr. LIVERMORE, of New Hampshire, and Mr. W. P. MACLAY, of Pennsylvania, and was supported by Mr. FORSYTH.

It was opposed as a novel proceeding, imposing inconvenient and extraordinary duties on the Committee of Elections, by requiring them to go through the alphabet from A to Z, and inquire into the qualifications of every member of the House. It was also opposed as imputing impurity to the House, not justly attributable to it; since the fact of taking the oath to support the constitution was *prima facie* evidence that the member taking it was conscious of having violated no provision of that instrument. If we inquire into the qualifications of members, why not also into others equally prescribed by the constitution? It was time enough to inquire into the rights of members to their seats when any specific allegation was made as to the want of qualification of any one or more of them.

To which the mover (Mr. FORSYTH) replied, by expressing his surprise at the opposition to his motion. There was nothing in it, he said, which accused any part of this House, or any member of it, of improper conduct. It neither charged the House with suffering members to remain who ought not, nor any member of the House with remaining when he ought not. The object was to inquire whether persons in certain situations had a right to a seat or not. It was presumed that those gentlemen so situated had examined their own rights, and were convinced of their title to seats here. But as he very much doubted the right of any person so situated to a seat in this House, he wished to have the question settled. If the House should be of his opinion, he should see with great regret any gentleman so situated return even temporarily to his constituents—for temporarily he was sure it would be, and that the House would at the next session, if not at the close of this, have the aid of their judgments and abilities. As to specifying the members who would fall under this rule, Mr. F. said he did not know all there were; he had been informed that there were ten or eleven members whose right to a seat depended on the decision of this question—he did not know them; if he did, he should have no objection to comprehend their names in his motion. He concluded his observations by disclaiming the intention to impute the least blame to gentlemen who had taken their seats under these circumstances; for they had no doubt satisfied themselves on the question.

The question on the resolution was taken, when there appeared in favor of the resolution 85, against it 85.

The House being equally divided, the SPEAKER, assigning as his reason his desire to have the constitutional question fully investigated, voted in favor of the motion, which was therefore adopted.

Repeal of Internal Duties.

The House resolved itself into a Committee of the Whole on the bill to abolish the internal duties.

The bill having been read through—

Mr. LOWNDES, the chairman of the Committee of Ways and Means, made a few remarks of the same bearing as the reasoning of the report. He took occasion also to say that it was due to candor and to himself to add, that he should have individually thought it better, instead of a total repeal, to have made a modification of the duties, so as to reduce their amount and lighten their burden, but still to leave a part of the system in operation. Believing, however, that the expectation of the total repeal was such as to render vain any attempt to discriminate, or to modify, he had concurred in the course adopted by the committee of recommending a total repeal, in preference to retaining the whole.

Mr. WILLIAMS, of North Carolina, heartily concurred in the sentiment of the gentleman from South Carolina, that these taxes ought not to be retained for the purpose of adding to the surplus in the treasury. He rejoiced that, whether gentlemen voted on the subject from the spontaneous determination of their own minds, or the recommendation of the Executive, the taxes were to be repealed. He congratulated the country, that from this time the people would be exempted from a system as unequal in its operation as it was unjust. Our

citizens, he said, had sustained it with a patience and long-suffering which was remarkable, and afforded a pledge that, should it be necessary hereafter again to resort to internal taxes, the Government might do so, and trust to the good sense of the people for their justification. The people, he argued, were always willing to pay taxes when the necessity of them was apparent. But, for more than a year past, that necessity had not existed for the internal duties, and, therefore, the people had demanded the repeal of them. Mr. W. referred to the estimates of the revenue from imposts for the present and last years, to show that the actual product had nearly doubled the estimate, as had been shown and predicted by the gentleman from Virginia, who was his able coadjutor at the last session, (Mr. JOHNSON,) and himself. He mentioned these facts, he said, to show that, if there was any blame anywhere for the occurrences of last session having reference to this subject—and blame had been imputed—the blame belonged to those who opposed the repeal of the taxes at that time, and not to those who advocated it. We rejoice now, said Mr. W., that the President has thought proper to recommend the measure, and that there appears to be a unanimous disposition at this time favorable to it.

The committee rose and reported their agreement to the bill, without amendment.

On the question to engross the bill—

Mr. BEECHER, of Ohio, said he was not sufficiently acquainted with this subject to act conclusively on it, and he presumed others might be in the same situation. To give them time to examine, he moved to adjourn.

This motion was lost by a large majority; and the bill was ordered to be engrossed for a third reading to-morrow.

SATURDAY, December 13.

Revolutionary Survivors.

Mr. BLOOMFIELD, of New Jersey, from the committee to whom was referred so much of the President's Message as relates to the surviving Revolutionary patriots, reported, in part, a bill concerning certain surviving officers and soldiers of the late Revolutionary army.

[This bill provides that every commissioned and non-commissioned officer or soldier, who had served in the Army during the war which terminated in the Treaty of Peace with Great Britain in 1783, and reduced to indigence, or by age, sickness, or any other cause, may be unable to procure subsistence by manual labor, shall receive half-pay during life, equal to the half of the monthly pay allowed to his grade of service during the Revolutionary war—provided that no pension thus allowed to a commissioned officer shall exceed the half-pay of a lieutenant-colonel.]

The bill was twice read and committed.

The motion submitted by Mr. BASSETT, of Virginia, to amend the rules of the House, was taken up and agreed to. [The question of *consideration*, which has heretofore been a matter of much contention in the House, in the days of party conflict, is thus expunged from the rules of the House.]

MONDAY, December 15.

Two other members, to wit: from Pennsylvania, JOHN ROSS, and from Mississippi, GEORGE POINDEXTER, appeared, produced their credentials, were qualified, and took their seats.

Amelia Island and Galveston.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives:

In compliance with the resolution of the House of Representatives of the 8th of this month, I transmit, for the information of the House, a report from the Secretary of State, with the documents referred to in it, containing all the information of the Executive, which it is proper to disclose, relative to certain persons who lately took possession of Amelia Island and Galveston.

JAMES MONROE.

WASHINGTON, *December* 15, 1817.

DEPARTMENT OF STATE,
December 13, 1817.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 8th instant, requesting the President to lay before the House any information he may possess, and think proper to communicate, relative to the proceedings of certain persons who took possession of Amelia Island, at the mouth of St. Mary's River, in the summer of the present year, and made an establishment there; and, relative to a similar establishment previously made at Galveston, has the honor to submit to the President the accompanying papers containing the information received at the respective Departments of State, the Treasury, and the Navy, upon the subjects embraced in the resolution.

The above documents and accompanying papers were ordered to be printed.

Expatriation.

Mr. ROBERTSON, of Louisiana, offered the following resolution to the House:

Resolved, That a committee be appointed to inquire into the expediency of providing, by law, for the exercise of the right of expatriation; and that they have leave to report by bill or otherwise.

Mr. ROBERTSON said that, for a very considerable length of time, he had wished this question to be decided by that tribunal to whom the decision of it belonged. He had, some years ago, offered a resolution similar to this, which was then not adopted; whether on account of the war in which we were then engaged, or for what other considerations, he had never been able to decide. The question which had arisen during the late war made a decision of it necessary. It would be well recollected, that among the soldiers of the United States were many individuals, natives of Great Britain, who were taken prisoners of war, and, according to the doctrine of the British Government, an odious doctrine, reprobated, he believed, by every other

Government, were treated as traitors fighting against their Government; and that, if this construction had been consummated, our Government had menaced severe retaliation. But, with what consistency could the United States take the ground of retaliation, when they themselves had never recognized, in regard to our own citizens, what we demanded of Great Britain in regard to hers? So far as proceedings have been had on this point, Mr. R. said he was led to believe this right had been denied to our citizens. He would not dwell on the particulars of the decision on this subject by Judge Ellsworth, some years ago, but merely state that Isaac Williams, a citizen of the United States, became a citizen of the French Republic, and was thereafter fined and imprisoned, by the decision of our courts, for making war on Great Britain, on the ground that he could not divest himself of the allegiance he owed to the United States. It was certainly proper, he said, that there should be some decision of the Legislature on a question of this nature and magnitude, which, at present, depended on the opinions of the Judiciary; and, as far as acts of Congress can regulate the judicial opinions, that such directions should be given on this head as he thought were obviously just and necessary. He had thought proper to make these remarks, because, although he believed the right to be clear, and that the Government would maintain it, as they ought to do, if they possessed the respect which is professed for the principles of liberty and for civil rights —a decision of the Legislature on the subject was more important at this moment, from considerations growing out of the present relations between the United States and foreign nations. By the existing treaty with Spain, a citizen of the United States, holding a commission under any Government at war with Spain, while we are at peace with her, is considered as a pirate. This extraordinary provision of the treaty must have escaped the attention of that power in our Government which makes treaties, or it would have been rejected, as well for its cruelty, as because it is an act of legislation to define and punish piracies, and not a power confided to the treaty-making authority. To say nothing more of that, however, Mr. R. observed, that he deemed it necessary to protect the citizens of the United States from punishment, due only to piracy, when found with commissions in their hands from any Government at war with Spain. He wished to see our citizens at perfect liberty to become citizens of what nation they chose, on such terms as that nation should prescribe. It would appear, from what he had said, Mr. R. remarked, that there was not that neutrality in our conduct towards the two parties, in the war between Spain and her colonies, which we all profess. In this respect, the parties were certainly not on the same footing; since a citizen of the United States in the employ of Spain against the colonies is not considered as a pirate, but engaged in the service of the colonies against Spain, he is. He did not know that this fact would have induced him to have brought the question before the House, but for the deep impression he felt of the justice and propriety of adopting the principle, abstracted from the existing state of things. But it was the more necessary to reduce the principle to legislation, because of the situation in which the want of it has placed us in regard to foreign nations.

The motion of Mr. ROBERTSON was adopted without opposition, and without a division; and Messrs. ROBERTSON of Louisiana, MASON of Massachusetts, POINDEXTER, ROSS, and FLOYD, were appointed the committee.

Pensions to Sufferers in War.

Mr. HARRISON, of Ohio, offered the following resolution:

Resolved, That the Committee on Military Affairs be, and they are hereby, instructed to inquire into the expediency of continuing the pensions which now are or have been heretofore allowed to the widows and orphans of the officers and soldiers who were killed or who died in the service of the late war, for a term of five years beyond the periods at which they shall respectively cease under the existing laws.

Mr. H. said, that, as the resolution only contemplated an inquiry, he would detain the House but a few minutes only, with the motives which induced him at this time to bring it forward. Some of the pensions which had been granted, said he, have already expired, and others will expire, probably, before the session of Congress closes. Amongst the latter is that which was granted to the widow and orphan of the late Brigadier-General Pike. In descending the Ohio River, said Mr. H., the eye of the inquisitive stranger is attracted by the humble dwelling which shelters the widow and orphan of that distinguished hero. Should his curiosity carry him further, and he should be induced to visit the abode of this interesting family, he would find, however humble the exterior, that neatness, frugal hospitality, and comfort, were to be found within its walls—that the lady had expended a proper portion of her pension in the pious purpose of educating her daughter. But, said Mr. H., if the visit should be repeated at the end of a year, and the law which the resolution contemplated should not pass, it would be found that the comforts of which he had spoken had fled, or that the means of procuring them were obtained by the personal exertions of the lady herself. From my knowledge of her situation, said Mr. H., I can state, with confidence, that her dependence for a comfortable support rests on the generosity—no, sir, not on the generosity, but on the justice of this nation; for, can there be, under Heaven, a juster claim than that which is presented by a widow, under such circumstances? In fighting your battles she has lost a husband—he has bled that his country might be great, might be free, might be happy. But our advantage has been to her an insuperable misfortune. It has thrown her

"On the wide world, without that only tie
For which she wished to live, or feared to die."

It is our duty to supply, as far as we can supply, the loss she has sustained. There are other cases, sir, which form the strongest claims upon the justice and the honor of the nation. Let me not be told, said Mr. H., that the Government has performed its contract by giving the five years' pension which was provided at the commencement of the war. Sir, the contract was all on one side, and it would have been immaterial what had been its provisions. The noble spirits of Allen, of Hart, and of Pike, would have met your enemy with as much zeal and devotedness as if the provision for their families had been such as they would have dictated; no personal consideration would have withheld them from the field of glory. But, said Mr. H., there are moments when the claims of nature will have their full effect. I have seen, said he, the wounded and expiring warrior in that awful moment, when the martial ardor which had filled his bosom had been suspended by the pain which he felt—when the sacrifice being made, naught of public duty remained to be performed—then it is, sir, that the thoughts of his family would fill him with the greatest solicitude. A beloved wife and children left friendless and unprotected—the latter without the means of education, and both without support. In such a situation, said Mr. H., I have heard, amidst the fervent aspirations to Heaven for their happiness, a consoling hope expressed that his country would not forsake them. Shall we, sir, not realize that hope? The country, said Mr. H., may be engaged in another war; if it should be the case, let us commence it with the benedictions of the widow and the orphan upon our heads. Let not their prayers ascend to Heaven charged with accusations against your justice and humanity. But, said Mr. H., I am anticipating a thing that cannot happen; the resolution will pass, as will a law that will be reported in obedience to it.

The motion of Mr. HARRISON was not opposed, and was adopted.

Internal Improvements.

Mr. TUCKER, of Virginia, from the committee appointed on so much of the President's Message as relates to roads, canals, and seminaries of learning, made a report in part, which was read, and committed to a Committee of the whole House on Friday next.

TUESDAY, December 16.

National Flag.

Mr. WENDOVER submitted for consideration the following résolution:

Resolved, That a committee be appointed to inquire into the expediency of altering the flag of the United States, and that they have leave to report by bill or otherwise.

Mr. W. said, in submitting this motion, that he should make but few remarks on this subject, not being a novel one; a bill relative thereto having been reported at the last session, but laid over from the pressure of business deemed of more importance. Had the flag of the United States never have undergone an alteration, he certainly should not, he said, propose to make a further alteration in it. But, having been altered once, he thought it necessary and proper that an alteration should now be made. It was his impression, and he thought it was generally believed, that the flag would be essentially injured by an alteration on the same principle as that which had before been made, of increasing the stripes and the stars. Mr. W. stated the incongruity of the flags in general use, (except those in the Navy,) not agreeing with the law, and greatly varying from each other. He instanced the flags flying over the building in which Congress sat, and that at the Navy Yard, one of which contained nine stripes, the other eighteen, and neither of them conformable to the law. It was of some importance, he conceived, that the flag of the nation should be designated with precision, and that the practice under the law should be conformed to its requisitions.

The motion was agreed to without opposition.

WEDNESDAY, December 17.

Another member, to wit, from North Carolina, JOSEPH H. BRYAN appeared, produced his credentials, was qualified, and took his seat.

Estimate of Appropriations.

The SPEAKER laid before the House the following communication from the Treasury Department, which was ordered to be printed, with the accompanying documents:

TREASURY DEPARTMENT,
December 17, 1817.

SIR: I have the honor to transmit herewith for the information of the House of Representatives, an estimate of the appropriations for the service of the year 1818, amounting to $10,925,191 62, viz:

For the Civil List - - - -	$1,070,708 02
For miscellaneous expenses - -	490,308 51
For intercourse with foreign nations	487,666 64
For the Military Establishment, including arrearages, and Indian department - - - -	6,265,132 25
For the Naval Establishment, including the marine corps - - -	2,611,876 20
	$10,925,191 62

The funds out of which the appropriations for the year 1818 may be discharged, are the following:

1. The sum of six hundred thousand dollars annually reserved by the act of the 4th of August, 1790, out of the duties and customs, towards the expenses of Government.

2. The proceeds of the stamp duties, and the duty on sugar refined within the United States.

3. The surplus which may remain of the customs and internal duties, after satisfying the pledge for which they are pledged and appropriated.

4. Any other unappropriated money which may come into the Treasury during the year 1818.

I have the honor to be, very respectfully, sir, your most obedient servant,

WM. H. CRAWFORD.

The Honorable the SPEAKER
of the House of Representatives.

FRIDAY, December 19.

Another member, to wit, from Delaware, WILLARD HALL, appeared, produced his credentials, was qualified, and took his seat.

Surviving Revolutionary Soldiers.

The House having resolved itself into a Committee of the Whole on the bill concerning the surviving soldiers of the Revolutionary war,

Mr. BLOOMFIELD delivered his impressions in respect to the operation and scope of this bill. He made a statement to show what were his views of the probable number of applicants under this bill, if it should pass; and the annual amount of the expenditure it would occasion. The Jersey brigade, he said, consisted, during the war, of four regiments; there were forty officers to each regiment, making in the whole one hundred and sixty. On the 4th of July last, as he was enabled from personal knowledge to state, there were living but twenty of those officers, being precisely one-eighth of the whole number. Taking this fact for his guide, as the proportion of survivors, he said, there were in the Continental army sixty-eight battalions, of whom about seventeen thousand men were killed or died in the service; and at the close of the war, it was a well-known fact, the battalions did not average more in each than two hundred and fifty; making in the whole seventeen thousand men—of whom, say about one-tenth (being generally not of as regular habits as the officers) were living; that is, seventeen thousand. Estimating the proportion of applicants for the pension at one-sixth, would make three hundred and forty. The full pay of the Revolution, six and two-thirds dollars per month to each, of these, would amount to $2,295 per month. Of the officers, the whole original number he estimated at two thousand seven hundred and twenty; of whom, supposing one-eighth to have survived, as in the instance of the Jersey brigade, there were now living about one thousand three hundred and forty. Of this number, he supposed one-tenth of the whole would become applicants for pensions—say thirty-four; at the full subaltern Revolutionary pay of seventeen dollars per month, their pensions would amount to $578 per month. The monthly pension for both officers and soldiers, on this estimate, would be $2,873, and the annual amount only $34,376—an amount which must daily decrease. But, instead of full pay pension, the bill, as it now stood, provided only for half pay. Would this House be satisfied, Mr. B. asked, with giving to these men, borne down with age and service, a pension of three and a third dollars a month during the small remainder of their lives, whilst they had given the soldiers of the late war (no disparagement to them) eight dollars per month? He hoped not; and therefore moved to amend the bill so as that the amount of pension should be for every officer seventeen dollars per month, and for every soldier eight.

Mr. COLSTON objected to the qualification of indigence, required by the bill, to entitle the surviving Revolutionary officer and soldier to the benefit of its provision. Let not the soldier, said he, by whose bravery and sufferings we are entitled to hold seats on this floor, be required to expose his poverty to the world, and exhibit the proof of it, to entitle him to relief. The incorporation of such a provision in the bill he considered as degrading to the House. In what light was this bill to be regarded? Was it to be considered as an act of justice? It was less than justice, having suffered these meritorious men to have remained for years unrewarded, to offer to the poor remains of them the right to a pension during life, clogged with such conditions. As an act of beneficence, he should be ashamed to hear it supported on this floor. On this subject, Mr. C. said he hoped a liberal spirit would prevail; and that, for the short remnant of their lives a pension would be given to all who survived of the soldiers of the Revolution.

Mr. ORR accorded fully in the sentiment of Mr. COLSTON. On the first perusal of the bill, he was struck with the thought, what must be the feelings of the high-minded officer of the Revolution, compelled to produce in open court the proofs of his own indigence; and he hoped the House would amend that part of the bill.

Mr. HARRISON, of Ohio, avowed his high respect for the survivors of the Revolution, and his sincere desire to contribute to their comfort in old age. But, he said, the amendment now proposed went too far, because it would embrace every one who had shouldered a musket, even for an hour, during the Revolutionary war. As to those who had seen serious service, so far from having claim to the meed of liberality, the amendment would be but a measure of justice, as no bounty had been accorded to them. Persons, however, covered with scars and borne down by length of service in those days, ought not be confounded with those who had been called out for an hour or a day. Some of the militia, he thought, were as well entitled to this pension as any regulars, of whom the Jersey militia might be particularly mentioned. But he wished to have the operation of the bill limited to such as should have served six months or more.

MONDAY, December 22.

Another member, to wit, from Pennsylvania, ALEXANDER OGLE, appeared, produced his credentials, was qualified, and took his seat.

Expatriation.

Mr. ROBERTSON, of Louisiana, from the select

committee to whom the subject had been referred, reported a bill providing the manner in which the right of citizenship may be relinquished.

[The bill proposes to provide that when any citizen, by application in writing to the district court of any district of the United States, in open court, and there to be recorded, shall declare that he relinquishes the character of a citizen, and means to depart out of the United States, he shall be thenceforth considered as having exercised the right of expatriation, and as being no longer a citizen of the United States; that such person shall be held as an alien forever after, and shall not resume the rights of citizenship without going through the same process of naturalization as other citizens.]

Surviving Revolutionary Soldiers.

The remainder of this day's sitting was spent in Committee of the Whole, on the bill concerning the surviving officers and soldiers of the Revolution. There was much debate, occasionally eloquent, but generally desultory, on amendments proposed to the bill, but involving also its principles.

Mr. STROTHER said, that he had not intended to trouble the House with any observations upon the passage of this bill; but he could not remain silent, when, by the proposed amendment, a feature was endeavored to be incorporated into it, which, to him, appeared to narrow the operation of the bill, and to strip it, at least, of one moiety of its merit. Is it just, or is it politic, he asked, to discriminate between the Continental line and the State troops, and the militia? What is the professed object of the bill? To provide for the indigent soldiers of the Revolution. What is the feeling or sentiment from which it springs? He said he had hailed the introduction of this bill as an auspicious circumstance—as a gratifying evidence of the re-connection of public feeling with the principles of the Revolution. If gratitude be the feeling or sentiment from which this bill springs, by what principle would you limit and confine it to the Continental line? Is the reason to be found in the bright page of your Revolutionary history, or in what celebrated system of ethics will you find its justification? If, said he, you look to the magnitude of the boon conferred, how awful is the debt of gratitude! Mark this mighty empire arising into existence from peril and from blood, and then sit down, if you can, and, by cool arithmetical calculation, draw a line of discrimination between those who gratuitously bestowed upon you that freedom and that prosperity you now enjoy. But why, said he, shall the militia be excluded the nation's bounty? Did they not assist in the conflict? Did they not, half armed and undisciplined, meet the invading foe, and assist in repelling him from your shores? The battle ground of Guilford speaks their eulogium; Bunker's Hill is the imperishable monument of their valor. If motive gives character to action, the indigent militiaman has the highest claim to the interposition of this Government. That love of liberty and country, which elevates man to his highest destiny, was the sole emulating principle which gave courage to their hearts, and strength to their arms, in the hour of battle. Here were motives as pure, and achievements as brilliant, as illustrate the proudest nations of antiquity. Sir, said Mr. S., it is with the deepest regret that I am driven to the comparison. I would ask that hand to perish, that would snatch one leaf from that laurel that adorns the brow of the Revolutionary Army; but it must be admitted that the Continental army had a mixture and compound motive; the holy flame that then electrified the country no doubt burnt bright in their bosoms; but they were surrounded by all the pride, pomp, and circumstance of glorious war; ambition had his prize in view, and avarice his reward. But why shall this invidious distinction be drawn in our legislative provisions? Let national pride, let national gratitude, obliterate it forever. Length of service, said he, is a criterion of merit equally fallacious and unjust. With the best possible disposition to render services, unfavorable circumstances may doom one soldier to waste his energies in inglorious ease, whilst others, favored by more auspicious fortune, may, within a comparatively short period, have frequently been led to battle, and, by their personal prowess, have contributed to the emancipation of their country. Within the experience of many members of this committee, these facts have occurred, and they are within the observation of all; shall we, then, he asked, with these facts ringing in our ears, and occurring recently before our eyes, admit a principle so deceptive and so inequitable? Sir, said Mr. S., I have viewed this bill in a different light; I have considered it emanating from feelings of mingled respect and sympathy; as a homage paid to that stoic fortitude and heroic courage that reclaimed a hemisphere from slavery; as a tribute of respect to sages who conceived and framed a Government, embracing in its gigantic arms an entire continent, protecting its inhabitants in the enjoyment of freedom and happiness. This House, said he, cannot more appropriately evince these feelings than by rejecting the proposed amendment. All who contributed to build up our magnificent political fabric, should be embraced in the wide circle of gratitude. Permit not him, who, in the pride of vigor and of youth, wasted his health and shed his blood in freedom's cause, with desponding heart and palsied limbs to totter from door to door, bowing his yet untamed soul to melt the frozen bosom of reluctant charity! No, sir, he said, the nation should seek out these noble ruins of that splendid period, and spread its charity around to warm and cheer them into a forgetfulness of their wrongs and their sorrows, in the evening of their days. Mr. S. concluded by remarking, that he flattered himself the amendment would not obtain. The object of the bill seems to connect gratitude and charity, service

and distress. The beams of national charity should not be concentrated on the head of the enlisted soldier; the beams of national beneficence should equally visit the domicil of the militiaman, and convey comfort to his fireside.

TUESDAY, December 23.

Indemnity for Slaves.

Mr. WILLIAMS, from the Committee of Claims, to whom was referred the report of the Secretary of State on the petitions of Antoine Bienvenu, Peter Lacoste, and Jacques Villeré, citizens of Louisiana, made to the House the following report; which was concurred in by the House:

That the petitions and accompanying documents were, by a resolution of the 29th of January last, referred to the Secretary of State; that the Secretary of State has submitted to the House a report, (hereto annexed,) which the committee beg leave to adopt as a part of their report.

The Committee of Claims would at any time undertake with great diffidence, to discuss principles of national law, or settle questions of conventional right. But at this time it would, in their opinion, be peculiarly indelicate, if not premature, for Congress to adopt any measure whatever. It would seem to them more correct that the subject of the petitions should await the result of a negotiation now pending between the Governments of the United States and Great Britain. They therefore recommend to the House, the following resolution:

Resolved, That the petitioners have leave to withdraw their petitions and documents.

DEPARTMENT OF STATE, *Dec.* 12, 1817.

The Secretary of State, to whom, by a resolution of the House of Representatives of the 29th of January last, were referred the petitions of Antoine Bienvenu, Peter Lacoste, and Jacques Villeré, citizens of Louisiana, has the honor of submitting the following report:

The petitioners complain that when the British forces retreated from the Island of Orleans, at the close of the late war, they carried away a considerable number of slaves belonging to them; the restoration of which was, after the ratification of the treaty of peace, demanded by General Jackson, conformably to the first article of that treaty, of the British commanding officer, General Lambert, and by him refused; and they apply to Congress for indemnity for the loss of their property.

Subsequently to the reference of these petitions, a Message from the President to the Senate of the United States, was, on the 7th of February last, transmitted to that body, with all the documents then in the possession of this Department, relating to the subject of these petitions; a printed copy of that Message and of those documents is herewith transmitted, which it is respectfully requested may be received as part of this report. By them it will be seen that a different construction has been given by the British Government to that part of the first article of the Treaty of Ghent, which relates to the restitution of slaves captured during the war, from that contended for by this Government. That, according to their construction, the British Government have not considered themselves bound to make restitution of any of the slaves or other property thus taken and carried away; and that the difference of opinion between the two Governments remaining, after all the amicable discussion between them of which the subject was susceptible, a proposal was made, on the part of the United States, on the 17th of September, 1816, that the question should be referred to the arbitration of some friendly power. To this proposal no answer from the British Government has yet been received. Their attention to it was again invited by the late Minister of the United States in England, before he left London, and has been urged anew in the instructions to his successor.

All which is respectfully submitted,

JOHN QUINCY ADAMS.

The Case of Mr. Meade.

Mr. TRIMBLE, of Kentucky, offered for consideration the following resolution:

Resolved, That the President of the United States be requested to cause to be laid before the House any information he may be able to communicate relative to the impressment and detention of Richard Cowles Meade, a citizen of the United States.

Mr. T. said that, having offered the resolution, it might be expected that he would give some explanation of the case to which it alludes. He had a right to presume that every member of the House had heard of the confinement of Mr. Meade. More than three years ago that gentleman had been incarcerated in a Spanish dungeon, where he had ever since remained. It was within his (Mr. T.'s) recollection, that many persons had expected that the last Congress would have caused an inquiry to be made into the subject; but, since that period, the case had assumed a new character, of most extraordinary complexion. It was well known, he said, that Mr. Meade is a citizen of the United States, and he believed, was, at one time, an accredited Consul, resident in some part of the Spanish dominions. Either character ought to have protected him from violence and outrage. But, unfortunately for him, they did not. The *causes* which produced his confinement were unknown to Mr. T.—they were probably buried in the vaults of the Inquisition. That, however, was of little consequence, if the facts which he was about to state were true; and that they are true was evinced, he said, by a document which he held in his hand, and which, he said, struck the mind with as much force as if it was marked with the characters of official certainty. I am prepared, said he, to admit, that if a citizen of the United States shall violate the penal or criminal code of any other country, he must submit to the punishment which may be inflicted on him; but such is not the case of Mr. Meade. It was not contended, he said, that the person in question had violated the letter or spirit of any part of the penal or criminal code of Spain—and, on the contrary, the document which he held in his hand afforded the highest evidence that there was no cause of complaint against him. Upon some urgent and

vigorous remonstrances being made on this subject by our Minister, Mr. Erving, a *public notorious* royal order was issued. Mark me, sir, said he—*a public notorious royal order*, announcing to Spain, to America, and the whole world, that there was *no cause* for the detention of Mr. Meade, and directing his immediate releasement. How the aching heart of Mr. Meade must have throbbed and swelled, cheered with the prospect of leaving in a few hours his loathsome, pestilential dungeon, to breathe once more the free and wholesome air! How it must have sunk and died within him, when the doors of his "prison house" were unbarred by a meagre minion, who had come skulking through the vaults of those abodes of death, with another *secret* order! Mark me again, sir—another secret order issued at the same time, under the same royal signature, commanding his *keeper* to hold the prisoner at his peril. Yes, sir, one order, public and notorious for his releasement, and another secret order for confinement, of the same date, and under the same royal signature. If these facts be true, the case stands without a parallel in ancient or modern times. Even the case of Czerney George has no similitude; he was a monster, executed by the Turk, because he had, in cold blood, plunged his sabre through the heart of his own father. Whereas Mr. Meade is acknowledged to be an innocent victim, suffering under royal displeasure. I will not attempt, said Mr. T., to paint the horrors of a Spanish dungeon, or the sickenings of hope at protracted confinement. It is not my wish to excite public feeling, and I utterly disclaim all intention of connecting this subject with other questions, now under discussion, or which may fall under discussion, between this Government and Spain. Mr. T. averred also that he had entire confidence in the late and present Executive heads of the Government, and had no doubt that every thing which could be done, had been done, in behalf of Mr. Meade. But he held it the duty of this House to inquire into this (he would again call it) extraordinary case, and, if the facts and circumstances shall require it, make such expression of its opinion as will add weight and force to future Executive exertions. If the case were as well-founded as rumor told, he for one, was ready to volunteer his arm in defence of Mr. Meade, and breast the storm, unfearing consequences. For, said he, while I have the honor of a seat in this House, no lawless despot shall lay an angry *finger* on a fellow-citizen of mine, without the hazard of bringing that *finger* to the *block*. He was one of those, he said, who were willing to believe that we ought not, at this time, uselessly to embroil ourselves with any foreign power; and he was thoroughly satisfied that it is our best and wisest policy to husband our resources, our men, and our means, to meet the coming conflict with the only nation that *dare* strike us upon the land or on the water—the only nation that can send us a Hannibal, or whom we shall revisit with a Scipio—that nation who has already sacked our infant Rome, and whose proud Carthage we shall one day humble in the dust, and sweep with the besom of retributive desolation. But, said he, there are no present circumstances, or looked-for events, that ought to incline us to harden our ears, that we may not hear the calls of a suffering citizen, imploring our protection. Solon, I think it was, upon being asked, "What form of government is best?" replied, "That form in which the smallest insult offered to the meanest citizen is considered an injury to the whole community." Could a better maxim be adopted in a Government like ours? Is there any thing which so exactly accords with the principles of our constitution? This, it is true, is but a single instance of individual oppression; but the outrage done to the personal rights of the victim; the infraction of national law; and the affront, the insult offered to our Government, is exactly the same as if half a million had been incarcerated; for he held that our system of Government is the true poetic chain, which links us together as a band of brothers—and

> "If from that chain a single link you strike,
> Ten, or ten thousand, break the chain alike."

We are bound, sir, said Mr. T., under our constitution, to protect the life, liberty, and property, of every citizen of our country. But where may he claim that protection? Or rather, where shall his right to claim it cease? Is it confined to the limits of the Union? or does it not extend to the remotest region of the globe, which is visited by our people? May the citizen claim it against the savages of the Western wilds, and is he not entitled to it among the still more lawless chieftains of a decaying, perishing, and ruined monarchy? It is not in this land of liberty that the citizen need call for protection; here it comes, as it were, unbidden, to encompass him about; but when oppression falls upon him in a foreign land, among strangers, friendless, and unprotected, his supplicating voice should not be heard in vain; for every thing which is obligatory in the social compact, or honorable in humanity, calls for and commands your protection, as if he stood upon the sacred soil that gave him birth. Who of us, said Mr. T., in the condition of Mr. Meade, would not ask this inquiry of this House? Which of us will refuse it? For the honor of my country, I hope there is not one.

The motion of Mr. T. was agreed to without opposition or further debate.

Revolutionary Survivors.

The House resolved itself into a Committee of the Whole on the bill concerning the surviving officers and soldiers of the Revolutionary war.

The debate continued on the main subject and on the proposed amendment of Mr. HARRISON. In this debate, Messrs. BLOOMFIELD, S. SMITH, HARRISON, COLSTON, BALDWIN, CLAGETT,

HOPKINSON, RHEA, ROSS, and INGHAM, bore part.

The amendment proposed by Mr. HARRISON, was ultimately rejected; as also was a previous question for the rising of the committee, in order to postpone the subject.

The committee then went on further to amend the bill, on suggestion of various members. In the proposition and discussion of these amendments, Messrs. PETER, BLOOMFIELD, LIVERMORE, PARRIS, RHEA, BENNETT, BEECHER, HARRISON, TERRY, FORSYTH, SMITH of North Carolina, TAYLOR of New York, TALLMADGE, WHITMAN, CLAGETT, PALMER, and STORER, took part.

Among the successful motions, was one by Mr. PARRIS, to include the "officers and mariners who served in the navy of either of the States, or of the United States," thus placing the Revolutionary officers of the navy on the same footing as those of the army.

The Committee of the Whole rose, about four o'clock, and reported the bill as amended.

The House took up the amendments reported by the committee; when various propositions were successively made and discussed, to disagree to or amend many of them.

The House having at length gone through the amendments, the bill was ordered to be engrossed, as amended, *nem. con.*, and read a third time to-morrow.

WEDNESDAY, December 24.

Surviving Revolutionary Patriots.

The bill providing for certain surviving officers and soldiers of the Revolutionary Army was read a third time.

A motion was made by Mr. LOWNDES to recommit the bill to a Committee of the Whole House, with instructions "to limit the benefit of the act to soldiers who were enlisted for a term of three years, or for the war, and who did not desert; and to officers who continued in the service of the United States to the conclusion of the war in 1783, or were left out of the service in consequence of disability, or in consequence of some derangement of the Army."

The question being stated on thus recommitting the bill, Mr. EDWARDS moved to amend the said instructions by striking out the words "*three years*," and to insert in lieu thereof the words "*one year*."

And the question being taken thereon, it was decided in the affirmative.

The question was then taken on the final passage of the bill, and decided in the affirmative without a division.

MONDAY, December 29.

Appointment of Members to Office.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the 12th of this month, requesting to be informed whether any, and which of the Representatives, in a list thereto annexed, have held offices since the 4th of March last, designating the offices, the times of appointment and acceptance, and whether they were at that time so held, or when they had been resigned, I now transmit a report from the Secretary of State, which contains the information desired.

JAMES MONROE.

DECEMBER 29, 1817.

DEPARTMENT OF STATE, *Dec.* 26, 1817.

The resolution of the House of Representatives of the 12th of this month, requesting the President to communicate to that House whether any, and which of the Representatives named in the list thereto annexed, have held offices since the 4th of March last, designating the offices, the times of appointment and acceptance, and whether they were at that time so held, or when they had been resigned, having been referred to this department, the Secretary has the honor respectfully to report to the President as follows:

John Holmes, of Massachusetts, Commissioner under the 4th article of the Treaty of Ghent, appointed 16th February, 1816, resigned 24th November, 1817.

Samuel Herrick, of Ohio, Attorney of the United States, appointed 19th December, 1810, resigned 29th November, 1817.

Daniel Cruger, of New York, postmaster at Bath, appointed 29th June, 1815, resigned 1st December, 1817.

Elias Earle, of South Carolina, postmaster at Centreville, appointed in April, 1815, resigned 12th June, 1817.

Thomas H. Hubbard, of New York, postmaster at Hamilton, appointed 11th March, 1813, resigned 23d October, 1817.

Samuel C. Crafts, of Vermont, principal assessor for the sixth Collection district, appointed 4th January, 1815, resigned 5th June, 1817.

George Robertson, of Kentucky, principal assessor for the seventh Collection district, appointed 4th January, 1815, resigned 5th June, 1817.

George Mumford, of North Carolina, principal assessor for the tenth Collection district. No resignation has been received from Mr. Mumford.

Levi Barber, of Ohio, receiver of public moneys at Marietta, appointed 3d March, 1807, resigned 1st December, 1817.

John F. Parrott, of New Hampshire, naval officer for the district of Portsmouth, appointed 23d April, 1816, resigned 15th November, 1817.

JOHN QUINCY ADAMS.

Referred to the Committee of Elections.

Commutation Bill.

The House, on motion of Mr. JOHNSON, of Kentucky, resumed the consideration of the bill to commute the bounty lands of the soldiers of the late army. The question being on concurring in the amendments reported to the House by the Committee of the Whole—

Mr. ROBERTSON, of Louisiana, rose for the purpose of offering an amendment, which would essentially change the features of the bill; in doing which, he entered somewhat into an examination of the merits of the principle of the commutation, which he decidedly approved. This amendment, in substance, authorizes every soldier, on surrendering his warrant at the land

office to be cancelled, to receive a certificate of the quantity of land surrendered; and where patents have issued, the patentee to surrender his patent to the Commissioner of the General Land Office within —— months after the passage of this act, in order to avail himself of the provisions thereof, and deposit at the same time an affidavit that he has not transferred or sold such patent to any person whatever, and receive a certificate therefor; and for these certificates such soldier or his agent shall receive certificates of stock bearing an interest of six per cent. per annum, redeemable at the pleasure of the Government, or within five years, at the rate of one dollar per acre for the land for which the warrant or patent has been surrendered, &c. Mr. R. thought the bill important, both as it regarded the soldier and the United States, but infinitely more important to the interest of the latter. It was all-important, he argued, that these lands should be taken out of the hands of speculators, and be redeemed by the nation. His amendment offered conditions to the soldier much more liberal, at the same time that it would be more convenient to the Government than the provisions of the present bill. The interest of both parties would be preserved, and the community rescued from that speculation which would, without this bill, certainly take place. Mr. R. dwelt some time on the policy of this measure—the expediency of which he illustrated by several arguments—and on the advantages of the change which he proposed in the bill.

The amendment offered by Mr. R. having been read—

On motion of Mr. JOHNSON, of Kentucky, the proposed amendment was ordered to be printed, and the whole subject to lie on the table.

Georgia Militia Claims.

On motion of Mr. COBB, of Georgia, the House resolved itself into a Committee of the Whole on the bill providing for the payment of the claims of certain detachments of the militia of Georgia, for services in defence of that State, in the years 1793 and 1794.

Mr. COBB observed, that the filling the blank necessarily involved the merits of the bill, for that, before the committee could be required to fill the blank with a certain sum, they should be satisfied whether any thing was due. He hoped he should be able satisfactorily to convince the committee of the justice of the claim, and that the sum proposed was the proper amount to be appropriated.

Mr. C. said, that the pacification of the Indian tribes, which was anticipated by the treaties made with them between the years 1787 and 1792, was not accomplished. In the year 1792, the tribes upon the Northwestern frontiers of the United States, from British intrigues, as was then and yet is believed, assumed an attitude of widely extended hostility. Nor was it long before their threatenings terminated in a war, so dreadful in its character, that the people of the Northwest yet have cause to remember it with grief and sorrow. The tribes upon the frontiers of the State of Georgia, as savage in their character, and more formidable in point of numbers, were not much less inclined to hostility. They were subject to the same influence which had been exercised upon their Northern brethren, aided by that of Spain, with which power the United States were at that time in warm dispute, about the navigation of the Mississippi River, and for other causes. The intrigues of Spain were at that time well known, and scarcely denied, as the public documents of the day amply testify. Of this, any gentleman could satisfy himself by consulting the volume of secret documents, lately published. From these causes, Mr. C. said, in the years 1792–'3, the situation of the inhabitants upon the Western frontiers of Georgia, was alarming to an indescribable degree. Suffice it to say, as had once before been said upon the same subject, that the peaceable citizen knew not, when he retired to repose, that he would ever awake; or, if he did, that he might not be roused by the horrid yells of the savage warwhoop, and but to behold his helpless family the bleeding victims of the Indian tomahawk and scalping knife.

It was not to be expected that the Executive of Georgia would calmly behold the blood-chilling scenes of murder and depredation, at that time but commencing upon the frontiers of the State. Had he done so, he would have merited and received the curses of his countrymen and posterity. Fortunately, the Executive chair of the State was then filled by one who was ever feelingly alive to the sufferings of his fellow-citizens. He now reposes in the grave! But his virtues and his patriotism are yet remembered, and his loss deplored. I allude, said Mr. C., to the late Governor Telfair.

Early in the year 1792, he made the necessary communications to the War Department. On the 27th of October of that year, the Secretary at War, by letter, gave him a most ample discretionary power, as the extract following will show: "If the information you may receive, shall substantiate clearly any hostile designs of the Creeks against the frontiers of Georgia, you will be pleased to take the most effectual measures for the defence thereof, which may be in your power, and which the occasion may require." It is impossible that words better suited to conferring an ample discretionary power could have been used. The Governor of Georgia is constituted the judge of the danger and of the amount of the force. The state of the frontiers required that such a power should be conferred, at that particular time, and it was conferred. It was necessary, because of the uncertainty of the extent to which the Indians would carry their hostility. It was necessary, because of the difficulty, and trouble, and expense, of bringing a militia force into action, none of which should be encountered, if to be avoided without danger.

In acting under this power, the Executive of Georgia acted with caution and prudence. The power was conferred in October, 1792. From that time, until the month of April, 1793, the dangers increased, and acts of depredation and murder multiplied on the frontiers. Longer delay of action would have been criminal. On the 23d of April, 1793, Governor Telfair addressed the following letter to John Habersham, then the agent of the United States for furnishing supplies in Georgia: "Sir, the very critical situation to which the frontier settlers are reduced, from the late murders and depredations committed by the Indians, renders it indispensable that means be taken to guard against their inroads. I have made the communications to the War Department, and, in the interim, have to request your issuing orders to the contractors to provide rations for such part or parts of the militia of this State as may be called into service, to be furnished at the several stations and places of rendezvous. In order that you may be informed how far such a measure is correspondent with the system adopted by the General Government, I herewith furnish a certified copy of a clause of a letter from the Secretary of War, dated 27th October, 1892," (the one already read,) "on the subject of Indian affairs." Upon the receipt of this letter, with the extract referred to, the agent, Mr. Habersham, had not a doubt as to the powers of the Governor. He conceived them to be so ample, so unbounded indeed, that he did not hesitate a moment to give to the Governor an assurance, that his requisition for supplies should meet with prompt attention. The reply of Mr. Habersham, dated on the same 23d of April, will at once prove this. "Being of opinion," says he, "that I shall be justified by the aforesaid clause in doing so, I shall immediately give directions to the contractor, who is now here, to furnish supplies to such of the militia as may be drawn out under the sanction of your Excellency, and will communicate the same to the Secretary of War, and the commanding officer of the federal troops in this State without delay." Under this power, and under these arrangements with the officers of the United States, the Governor of Georgia proceeded to call the militia into service. Need it be again said, how properly?

Mr. C. said that it was greatly to be regretted that the pay-rolls, which only would afford evidence of the precise force called into the field, and their time of service, had been destroyed in the conflagration of the public buildings in this city by the British in the year 1814. He was happy, however, to have it in his power to assure the committee, that, from information which he had received, and which he was disposed to credit, a duplicate of the pay-rolls was yet in existence in the State of Georgia. For all the purposes of correct legislation, there was sufficient evidence to be found in certain estimates, which have not been destroyed, and which were calculated from the pay-rolls before their destruction. From these the names of most of the officers, with the number (without the names) of their men, and the length of their terms of service, could be ascertained. The estimates, together with a letter from the Secretary at War to the Governor of Georgia, show that, at one period, there were from eight hundred to one thousand two hundred militia in the field. The estimates also proved the fact, that the militia were mostly detached for short terms of service, and were discharged when the danger of the frontiers no longer required their services.

Even upon the supposition, that the full number of twelve hundred men had been kept in service from April, 1793, until June, 1794, (at which day they were disbanded,) he thought that he should be able to show to the committee, that the force was not disproportioned to the danger which threatened. The frontiers of the State of Georgia extended along the borders of two nations of Indians, at that time equally hostile. The whole extent of the exposed frontier was upwards of four hundred miles, from the Tugeloo River around the western parts of the State, to the mouth of the St. Mary's River. It is well known, that all that British and Spanish intrigues could do, was done to excite both these nations to a war. North Carolina, South Carolina, and the territory which has since been created into the State of Tennessee, were engaged in an active war, as well of defence as invasion, with the Cherokees and Upper Creeks, to whose ravages the upper parts of the State of Georgia were equally as much or more exposed. On the southern frontier were the Lower Creeks, who had already commenced the work of death and slaughter. The frontier, in its whole length, was but thinly inhabited. Add to all these considerations the fact, that the Governor of Georgia was confined to defensive operations only, and was restricted from prosecuting the war by invading the Creek nation. The fact will be learned from the letter of the Secretary of War to the Governor of Georgia, dated the 30th May, 1793. Had the wishes of Governor Telfair been attended to, upon this subject—had he been permitted to carry the war into the heart of the enemies' country, as he one time prepared to do, and by which only can an Indian war be effectually terminated, this application for so large a sum would not now be made at the hands of Congress. From this measure he was however turned by the positive orders of the War Department in September, 1793. But, under all these circumstances, Mr. C. thought that the committee would be convinced, that a less force than the one employed, would have been ineffectual even for the purpose of invasion; and he thought that any one, at all acquainted with Indian warfare, would be convinced, that it would be less effectual for defence. He was also willing to submit to the committee, whether the Governor of Georgia exercised the discretion and the power conferred

upon him in an incautious or imprudent manner.

Soon after the militia was called into service, the power of the Governor of Georgia was suspended, by a letter addressed to him from the Secretary of War, dated on the 30th May, 1793. This letter is of the most extraordinary character. It declared, "that, from considerations of policy, at this critical period, relative to foreign powers, and the pending treaty with the northern Indians, it is deemed advisable to avoid, for the present, offensive expeditions into the Creek country. But, from the circumstances of the late depredations on the frontiers of Georgia, it is thought expedient to increase the force in that quarter for defensive purposes. The President, therefore, authorizes your Excellency to call into and keep in service in addition to the regular force stationed in Georgia, (which at that time could not have exceeded one hundred, and were of no use,) one hundred horse and one hundred foot, to be employed under the orders of Colonel Gaither, in repelling inroads, as circumstances shall require." One hundred horse and one hundred foot to repel the inroads of two of the most savage and warlike tribes of Indians upon the whole continent, on a frontier extending upwards of four hundred miles! Sir, said Mr. C., the destruction and overthrow of such a force would have been but a pastime with the tribes. But it is not now my design to question the propriety of this policy. Before, however, the order could be executed, and the troops disbanded, on the 10th day of June, 1793, only ten days thereafter, the Executive of the United States seems to have been sensible of its impropriety, and accordingly, in a letter to the Governor of Georgia, he says—"The State of Georgia being invaded, or in imminent danger thereof, the measures taken by your Excellency may be considered indispensable. You are the judge of the danger, and will undoubtedly proportion the defence to exigencies. The President, however, expresses his confidence, that as soon as the danger which has induced you to call out so large a body of troops, shall have subsided, that you will reduce the troops to the existing state of things, indeed to the number mentioned in my letter of the 30th ultimo, duplicates of which have been forwarded, provided the safety of the frontiers will admit the measure." If any doubts could have existed of the power given to the Governor of Georgia, before the receipt of this letter, they were put to rest thereafter. By this, he was expressly made the judge of the degree of danger, and of the number and extent of the force. It contains an acknowledgment of the fact, that a large body of troops had been called into service, but considers the measure as having been indispensable. It expresses a hope that the force will be reduced, yet leaving the Governor to judge when the safety of the frontiers will admit the reduction to take place.

After the receipt of this letter the Governor could not have mistaken his powers. To afford complete evidence, however, of this fact, Mr. C. called the attention of the committee to a letter of the same date, (10th June, 1793,) from the War Department to the Governor of South Carolina, in which he is requested, "that, in case the frontiers of Georgia should be seriously invaded by large bodies of Indians, he would, upon the request of the Governor of Georgia, direct such parts of the militia of South Carolina to march to the assistance of Georgia, as the case might require; for the expenses of which the United States would be responsible." Here again is the Governor of Georgia recognized, as being the judge of the necessity of the call, and clothed with power of making the request of the Executive of South Carolina. But, it also contains evidence of another fact, that the detachment of the force by the order, or at the request of the Governor of Georgia, was at the expense of the United States.

The report of the committee at this session, upon the claim, says, that there is no evidence that this power was conclusively withdrawn from the Governor of Georgia, until February, 1794. There is, however, a letter of the 19th July, 1793, which Mr. Dearborn, Secretary at War, in his report, seems to think contained in it enough to amount to an order, withdrawing the power. This letter was sent by Constant Freeman, who had gone to the State of Georgia as agent of the War Department, for the express purpose of superintending all matters in which that department was concerned on that frontier. This letter contains an express order. Although the Secretary at War must have been apprised of the Governor's proceedings to a period as late as June, 18th, of which date he acknowledges to have received letters from the Governor, yet does he bestow no censure for measures already adopted. His power is not withdrawn. The judgment and discretion which he had previously been required to exercise, was not questioned. On the contrary, from the month of September, 1793, until February, 1794, although the Department must have known the numbers and proceedings of the militia, no order was sent to disband the men. On the 22d February, 1794, a positive order was sent, and before 1st of June thereafter, the whole force called out, except certain specified corps, were dismissed. Even this order contains an expression, significant of the belief of the War Department, that the United States were liable for the expenses of the militia in service previous to that time. For it declares, that the United States would not, thereafter, be pledged for the expenses. This can mean nothing else than that the United States held themselves previously pledged; especially as, until that period, the issue of supplies of provisions had never been prohibited. That the Governor of Georgia did not consider his powers withdrawn is evident. The militia were retained until Governor Telfair went out of office, and for some months after Governor

Matthews came into it. Even if the letter of 19th July, 1793, should be considered as an order to discharge the force called out, yet another argument in favor of this claim is to be derived from these facts. The claim is made by the individual persons performing the services, and not by the State. The Governor had power from the General Government to call them into service in the first instance. It was the duty of the militiaman to obey—it did not belong to him to call for the orders issued to his superiors, that he might judge whether his superiors had pursued them; nor ought he to be deprived of his pittance of pay, if his superiors have either neglected or exceeded their orders. If the power by which he was called out was, in the first instance, sufficient, his retention in services is not his fault, nor should he be the loser.

WEDNESDAY, December 31.

Another member, to wit, from South Carolina, JAMES ERVIN, appeared, produced his credentials, was qualified, and took his seat.

Titles of Nobility.

Mr. EDWARDS offered the following resolution:

Resolved, That the President of the United States be requested to cause to be laid before this House information of the number of States which have ratified the 13th article of the amendments to the Constitution of the United States, proposed at the second session of the 11th Congress, [prohibiting any citizen of the United States from accepting or retaining any title of nobility, pension, office, or emolument, without the consent of Congress, from any foreign Prince or Power, &c.]

Mr. EDWARDS stated that his motion was induced by some doubts whether the article referred to had been ratified by a sufficient number of the States to make it a part of the constitution, although it appeared as such, he perceived, in the copies printed for the use of the members of the House; and it was desirable that a fact so important should be placed beyond question. The motion was agreed to without opposition.

FRIDAY, January 2, 1818.

Another member, to wit, from Massachusetts, TIMOTHY FULLER, appeared, produced his credentials, was qualified, and took his seat.

Pensions to Wounded Officers.

The following resolution, submitted by Mr. COMSTOCK, was read and committed to the Committee of the Whole to which is committed the resolutions submitted by Mr. JOHNSON, of Kentucky, on the 9th of December last:

Resolved, That it is expedient to provide, by law, for placing on the pension list the officers of the Army who have been wounded in battle during the late war with Great Britain.

Mr. COMSTOCK said he did not rise to say much on the resolution he had just had the honor to present. He did not think the occasion required him to go into the subject at any considerable length. But he deemed some explanation of the motives which had induced him to this measure, due to the subject, to the House, and to himself. He hoped, therefore, to be indulged while he proceeded to make a few observations. The House, he said, had not yet to learn that wounded officers of the Army were not placed on the pension list by common usage and design. If a contrary practice had, in a few instances, obtained, as he was informed it had, and some wounded officers of the Army were found on the pension-roll, the fact could be accounted for only in this way: A few wounded officers had availed themselves of the pension laws before the reduction of the Army, shortly after the close of the war. When this reduction was made, a very small number of these were retained in service; no reference having, he presumed, been had, on this occasion, to the list of pensioners. Mr. Speaker, said Mr. C., the services and sufferings of the Revolutionary officers and soldiers have ever been duly appreciated by the people and by their Representatives. It would be casting a dishonorable imputation upon the virtuous and enlightened citizens of the United States, to suppose that they could be unconscious of the exalted merit of those who have endured for them nakedness, starvation, and toil, and braved so many dangers in fighting their battles. Nor did they brave only the dangers of the field; they subjected themselves to the fate of rebels, had the contest been disastrous. Their conduct must have called down upon them the unmingled fury of the regal Government under which they were held. It is true, indeed, said he, that the Revolutionary officers and soldiers have not, in all cases, been sufficiently rewarded. This has been owing partly to the want of means in the Government, and partly, he feared, to an improper procrastination. But I rejoice, said Mr. C., that the day of retribution has at length arrived. On the recommendation of a President whose blood was freely shed in the arduous contest which established our independence, and inspired with the sentiments and feelings of the venerable reporter and advocate of a bill to reward the few survivors of that contest, we are about to accord to them that assistance which they need, and to which they are entitled by every principle of justice and of gratitude. Mr. C. said he anxiously improved this auspicious period in our history, to invite the House to the subject in question. Mr. Speaker, continued he, it will be recollected that a proposition was made a few sessions since, to bestow a gratuity in land upon the officers of the late army, according to their respective grades.

Some honorable gentlemen were, at that time, unwilling to confer this gratuity, without discrimination, upon those officers who entered the Army just before the termination of hostilities, and who had been constantly employed

in the recruiting service, as well as upon those who had endured the privations and perils of the field, in rendering long and signal service to their country. None were found, I believe, said Mr. C., that felt disposed to withhold the bounty of their Government from the latter class of officers; all were ready to reward exalted merit. For myself, said he, it would ever gratify the finest feelings of my heart to aid the passage of any law necessary to do them justice. This, however, said he, may be considered a digression; he merely suggested it to show that no such objection could be sustained against the resolution, or against a bill of which it might be the foundation. The wounded officers of your army have manifested the physical and moral qualities necessary in the soldier. They have largely shared the sufferings and dangers incident to their profession. They have not wasted their time in the pleasures of the ball-room, and in the amusements of fashionable circles, remote from fatigue, alarm, and conflicts. They have relinquished their employments and professions, sacrificed their means of acquiring wealth, and, foregoing the endearments of domestic life, have sought the tented field. They have met your enemy, trodden the bloody arena, sustained your eagles, and achieved victory in the jaws of death. They have borne from the plain of battle the laurels of conquest, but have returned, seamed with scars, disfigured by frightful wounds, or deprived of their limbs. In these consist their pretensions as soldiers. In these they exhibit the mournful, yet proud, monuments of their valor and devotion to their country. When contemplating this subject, said Mr. C., a number of names are presented to my view, which I will beg leave to pronounce in your hearing. Among the wounded officers of your army, I behold the names of Majors Larabee, Wetmore, and Birdsall, with Lieutenants Shaler and Wilcox. Major Larabee lost his left arm at the battle of Brownstown, under the command of General Miller. This General, distinguished in so many engagements, I leave, said Mr. C., to the pen of the faithful historian; suffice it to say that his fame is more imperishable than brass or marble. The sensation which the battle of Brownstown produced throughout the Union can never be forgotten. Our affairs, at that time, wore rather an unfavorable aspect. When dangers thickened around his Spartan band, their unconquerable spirit rose commensurate with the crisis. They manifested a contempt for danger, and an invincible determination to conquer or to die. They attacked and routed the allied forces of the enemy, drove them from their lodgments, and left the field in triumph. Some of our countrymen were slain; but with the loss of an arm Major Larabee survived, and has ever since continued in the service. The amputation of his limb has not lessened his usefulness. The reports of the Army sufficiently evince his active service. Major Wetmore lost his right arm, in a bold and dangerous enterprise, on the Niagara station, in the first campaign, under the command of an honorable gentleman of this House. Though he has lost a most useful member, he has lost none of that proud sensibility which characterizes the American soldier. He has constantly served, with honorable distinction, in various capacities in the Army. I think, said Mr. C., that I was introduced to this young man when he could reach to me his right hand in the salutation of friendship; but this he can do no more forever. Major Birdsall was dreadfully wounded in the face when the night assault was made on Fort Erie. It had become his duty to dislodge the enemy from the momentary possession of that bastion which was afterwards blown up. A few moments after this awful catastrophe, when he was standing on a twenty-four pounder, very near this fatal spot, dispensing orders to his troops, and cheering them to victory, a ball entered his mouth, carried off almost one-half of his lower jaw, and lodged in the lateral and hinder part of the neck. It has, very recently, been extracted. Language cannot express the sufferings he had sustained. Repeated and extensive ulcerations had supervened. The left shoulder, from the continuity of its parts with those wounded and ulcerated, had fallen below its natural position. The dressings for the wound must be removed and renewed several times a day; certainly as often as food is taken, and sometimes more frequently. The constant oozing of the saliva, through the unclosed wound, soon wets not only the dressings, but also the collar and cravat. But, sir, said Mr. C., I must not be too technical and minute in description upon this occasion. We see, however, that sufferings, expense, and trouble have not driven Major Birdsall from the service. He continues, with his acknowledged zeal and ability, to discharge its duties with universal approbation. With Lieutenants Shaler and Wilcox, who were wounded in the campaign of 1814, I have not, said he, the pleasure to be acquainted, nor do I know their particular history. But they are in the Army; and their wounds clearly indicate that they have sought the post of honor, and challenged the esteem and reward of their country. The former has lost his left, and the latter his right arm.

But, Mr. Speaker, the allowing of an officer pay and pension at the same time, may be conceived inadmissible. It may be said, that an officer entitled to a full pension according to his rank, must be totally disabled, and by consequence incompetent to afford sufficient service to his country. Mr. C. said, the words "total disability," used in the pension laws, are indefinite in their meaning. The phrase, he said, was obviously relative. If the words were taken in their most extensive and unqualified sense, they would import death itself, or something approaching near that state. For, if a man possessed only a very small share of corporeal and mental power, he could exercise it

in some way towards procuring a livelihood. Nevertheless, an officer deprived of an arm, leg, or eye, is totally disabled in the view of the laws, judging from the interpretation they have received in practice, and is therefore entitled to a full pension, in proportion to his grade. But will it be contended that these injuries, essential as they are, disqualify an officer to discharge the duties devolved upon him? I trust not, sir, said Mr. C. I do not conceive that the being able to shoulder a barrel of cider, or to chop off logs, is an important qualification in an officer. Lord Nelson did not possess the physical ability necessary to accomplish such things when he fought those battles that have ranked him among the most illustrious of naval heroes, and gilded the pages of British history.

Sir, said Mr. C., would a pension make the condition of the officers I have named more eligible than if they had never been wounded? Surely not. What value shall be put on the wounds of these officers? What is the amount of the inconvenience, expense, and torture, which they have borne, and continue to sustain? Would they have bartered their active limbs for a pension? No, sir; they risked more than their limbs, when, inspired by nobler motives, they took up arms and fought for their country! Their talents and good conduct have continued them in the Army. They are able to serve you in peace or in war; and, should you place them on the pension roll, how can it be shown that this act of sheer justice ought to exclude them from a participation in military employment and promotion?

Mr. Speaker, the war is ended; the din of arms does not continue to salute our ears; our eyes are no longer pained with beholding garments rolled in blood. We are prone to forget these things; but the wounded soldier, and those who depend on him for protection and support, have much reason to remember them. Though our wounded officers of the Army are not disqualified for military service, their habits, and the loss of former business and employments, have disqualified them for other pursuits.

Mr. Speaker, let us accord honor and assistance to the brave!

> "All things are common, but the warrior's fame:
> *That* glows eternal in the mouths of men."

In anniversary orations and songs we are called "a band of brothers." Let us evince by our conduct the sincerity of our fraternal affection. I am unwilling to join in these professions, if they are unmeaning. It is not enough to say to a naked and hungry brother, "Be thou clothed and fed." Tears of sympathy should bedew our cheeks, and streams of munificence should issue from our hands. Sir, said Mr. C., it is not among the least blessings of a republican Government, that its burdens are equally borne, and its advantages equally enjoyed. Let us, Mr. Speaker, do equal and exact justice to every class of citizens. Then our free institutions, based in the affections of the people, shall manifest to the latest ages the memorials of Columbian wisdom and valor. I hope, said Mr. C., that the resolution will be referred, and that something may result from it beneficial to the wounded officers of the Army, and honorable to the nation. I hope that Government will at least place them above embarrassment, and enable them to support themselves, and those whom Providence may have committed to their care and protection. It must gratify every benevolent heart to see the children of the wounded defenders of their country's rights enjoying those social advantages which the gallantry of their fathers has nobly contributed to secure and perpetuate.

MONDAY, January 5.

Ohio Contested Election.

Mr. TAYLOR, of New York, from the Committee on Elections, to whom was referred the petition of C. Hammond, contesting the election of Mr. HERRICK, a member of this House from the State of Ohio, on the ground of his having held an office under the United States, subsequent to the fourth day of March last, made a report; which was read, and referred to a Committee of the Whole. The report is as follows:

That on the 19th December, 1810, Mr. Herrick was appointed Attorney of the United States for the district of Ohio, which office he accepted, and held until his resignation thereof, on the 29th November, 1817. In October, 1816, he was elected one of the Representatives of the State of Ohio for the Fifteenth Congress. The result of the election was publicly announced on the 7th January, 1817, in the presence of the Senate of that State. On the 15th September, 1817, the Governor executed a certificate of Mr. Herrick's election, according to the law of Ohio, which was received by him on or about the 30th day of the same month. Mr. Herrick, therefore, continued in office almost nine months after the fourth of March last, and two months after receiving the certificate of his election. It does not appear, on the part of the memorialist, and it is denied, on the part of Mr. Herrick, that he performed any act as Attorney of the United States, after the said 30th September. He, however, continued in office, was liable to perform its duties, and was entitled to its salary, until his resignation. Congress met December 1, 1817, and Mr. Herrick took his seat on that day in the House of Representatives.

The 6th section of the first article of the constitution provides that "no person holding any office under the United States shall be a member of either House, during his continuance in office." The incompatibility is not limited to exercising an office, and at the same time, being a member of either House of Congress; but it is equally extended to the case of holding; that is, having, keeping, possessing, or retaining an office under such circumstances. If the membership of Mr. Herrick commenced either on the 4th of March or the 30th of September, 1817,

he has vacated that membership by holding an office incompatible therewith.

We do not find that the question of incompatibility has been agitated in the House of Representatives on more than two occasions. The first case was that of John P. Van Ness, which occurred during the second session of the Seventh Congress. The Committee of Elections were then instructed to inquire whether Mr. Van Ness, one of the Representatives from the State of New York, had not, after his election, and after he had occupied a seat of a member, accepted and exercised the office of a major of militia, under the authority of the United States, within the Territory of Columbia. Mr. Van Ness freely admitted the fact, as alleged, and thereupon the House unanimously resolved that he had thereby forfeited his right to a seat as a member of the House.

The other case was that of Philip Barton Key, decided at the first session of the Tenth Congress. Mr. Key's seat was impeached, among other grounds, upon this: that, at the time of his election, and until a few days, either before or after he took his seat, he held, from the British Government, in his own right and name, the half-pay pension of a captain of infantry. The facts were briefly these: Mr. Key served as an officer in the British army, without the limits of the United States, from 1778 until 1783, when the corps to which he belonged was disbanded, and the officers placed on half-pay. The pension was paid, either for the benefit of himself or his assignee, until the month of December, 1805, when he received six months' half-pay: in January, 1806, he wrote to his agent in London, directing him to resign his claim to half-pay, and also to rank, if any could be supposed to exist; but it did not appear that any thing had been done in pursuance of that letter, nor indeed that it ever had been received by his agent.

On the 6th of October, 1806, Mr. Key was elected a Representative of the State of Maryland, for two years, commencing on the fourth of March, 1807. On the 24th of October following, he addressed a letter to Mr. Erskine, then His Britannic Majesty's Ambassador at Washington, referring to the letter written to his agent, and repeating his resignation in a formal manner. This letter was not delivered to Mr. Erskine until the 28th or 29th of October, which was two or three days after the meeting of Congress, and after Mr. Key had taken his seat in the House of Representatives. Upon these facts the House decided that Mr. Key was entitled to his seat.

In regard to the several cases of Messrs. Turner, Dawson, and others, mentioned in the answer marked C, filed by Mr. Holmes, on the part of Mr. Herrick, we think a single remark sufficient. It does not appear that the House of Representatives was made acquainted with the existence of these cases. It cannot, therefore, be considered to have acquiesced in that of which it was ignorant.

The decisions of the House of Commons, under the statutes 5 William and Mary, chap. 7; 11 William III., chap. 2; and 12 and 13 William III., chap. 10, may serve to shed some light upon the subject under consideration. The first of these statutes enacts that no member of the House of Commons shall, at any time, be concerned, directly or indirectly, or any other in trust for him, in the framing, collecting, or managing any of the duties granted by that or any future act of Parliament, except the commissioners of the Treasury, and the officers and commissioners for managing the customs and excise. The second act extends the disqualification to officers of the excise, declaring them incapable of sitting, voting, or acting as members; and the last mentioned act applies the same provisions to all officers of the customs.

Many members of the House of Commons were, at different times, expelled for violations of these statutes; but the facts are reported in terms so general, that it is impossible in most cases to determine whether the offence was committed before or after the member took his seat in the House. We find, however, two cases where the particulars are stated. The first case was decided on the 13th February, 1698, under the act above mentioned of the 5 William and Mary. It is the case of Mr. Montagu; and it is stated as follows by Hatsell, in his precedents of proceedings in the House of Commons. The new Parliament was made returnable on the 24th of August, 1698, and was directed to sit for the despatch of business on the 29th of November. Mr. Montagu had been a commissioner of stamp duties, but, in the commission which passed in September, 1698, he was left out; it appeared that he had acted under the former commission till the 4th of October, 1698. But, having informed the House that he did not qualify himself as a member till the 29th of November, and so conceived himself not to be within the law, he is, upon the question, called in to take his place, and a committee is appointed to draw up and state the matter of fact. It does not appear that the committee ever made report.

The other case is reported as follows: On the 5th of February, 1708, Sir Richard Allen was, on the hearing of his petition, declared to be duly elected for Dunwich. On the 7th of February he surrenders an office in the customs for life, to which he had been appointed in May, 1678. On the 8th of February this surrender is enrolled, and on the 9th of February he desires the sense of the House, before he takes his seat, on the clause of the 12 and 13 of William III., chap. 10, which relates to the officers of the customs; and, upon reading the letters patent and surrender, he is permitted to take his seat.

Persons elected to the House of Commons become at one time members for certain purposes, and at another time for other purposes. Thus, immediately upon executing the indenture of return by the sheriff or other returning officer, the person elected becomes entitled to the privilege of franking, although the day at which the Parliament is made returnable may not have arrived. Yet he is not a member, for he may thereafter be a candidate for election in another district, at any time before the Parliament is made returnable, and the return actually filed in the Crown Office. From the time last mentioned, he becomes a member so far that he cannot be a candidate for another district, but yet may thereafter hold an office incompatible with membership, and upon resigning his office, he may immediately qualify and take his seat in the House. It has often been decided by their Committee of Elections, that a person holding an office incompatible with membership is, nevertheless, capable of prosecuting his claim to a seat. After examination of all the Parliamentary registers, histories, and journals within our reach, we have found no case where a person elected to the House of Commons was brought in on a call of the House, before he had voluntarily appeared, qualified, and taken his seat, nor do we find any instance of a person having been expelled until after such time.

A very particular case occurred on the 10th of

February, 1220: Sir John Leech having been duly elected a member of the House of Commons, and appearing to take the oaths of allegiance and supremacy, was asked whether he had not already sat in the House of that Parliament in violation of the statute. He confessed that, on the Wednesday morning previous, he did sit in the House a quarter of an hour being unsworn. For this offence Sir John was not expelled, but it was resolved that he was disabled to serve in the House; and a new writ of election was issued to supply the vacancy, in the same manner as if no election and return had taken place. The same course of proceeding has been pursued when a person, duly elected and returned, comes into the House and refuses to be sworn. Such was the case of Mr. Archdale, in the year 1698, who, being elected and returned, came into the House of Commons and said he was ready to serve, if his affirmation of allegiance could be accepted instead of his oath. The House resolved that it could not. Mr. Archdale, still declining to take the oath, was refused admittance to a seat, and a new writ was issued to supply his place. This case is more peculiar, because a person elected to the House of Commons cannot relinquish his right to a seat either before or after qualification, otherwise than by accepting an incompatible office. But by refusing to be sworn, he may do that indirectly which he is not permitted to do directly. We have seen several similar cases which occurred in the Colonial Assembly of New York, but not now having access to the journals, we are unable to report the particulars.

Persons elected and returned to the House of Commons may be chosen members of committees before they appear and qualify. But it is allowed for a reason similar to that which, in courts of law, permits a declaration to be filed *de bene esse* before the defendant appears in court. In both cases the act is conditional; and it is ineffectual, unless the condition of appearance be performed.

The practice of this House, which does not allow the appointment of persons to be members of committees, until they shall have taken their seats, is obviously more reasonable and convenient than the other. It was decided, as early as the first session of the Second Congress, in the case of John F. Mercer, who was chosen to supply a vacancy in the representation of the State of Maryland, occasioned by the resignation of William Pinkney, that a representative elect might decline his election before taking a seat, and before the first session of the Congress to which he was elected. We do not find that the question has since been agitated, although similar cases have often occurred. Our rule in this particular is different from that of the House of Commons; it is also better, for it makes our theory conform to what is fact in both countries, that the act of becoming in reality a member of the House depends wholly upon the person elected and returned. Election does not of itself constitute membership, although the period may have arrived at which the Congressional term commences. This is evident from the consideration that all the votes given at an election may not be received by the returning officer in season to be counted, whereby a person not elected may be returned, and take the seat of one who was duly elected. Neither does a return necessarily confer membership, for if he in whose favor it be made should be prevented taking a seat at the organization of a House of Representatives, he might find, upon presenting himself to qualify, that his return had been superseded by the admission of another person into the seat for which he was returned.

At an election, held in the State of Georgia, in October, 1804, Thomas Spalding was duly chosen a Representative to the Ninth Congress; but because the votes of three counties were not returned to the Governor within twenty days after the election, Cowles Mead received a certificate, and took his seat. Mr. Spalding afterwards presented his petition. The House vacated Mr. Mead's seat, and admitted Mr. Spalding.

In April, 1814, Doctor Willoughby was elected a Representative of the State of New York to the Fourteenth Congress; but by reason of a clerical error, of certain inspectors, in returning certificates of votes to the office of the county clerk, General Smith was declared duly elected, and a certificate of election was accordingly delivered to him; but he having omitted to take a seat at the commencement of the session, was, on the ninth day thereafter, declared not entitled, and thereupon Doctor Willoughby was admitted in his stead.

Several other cases might be cited where persons were returned, who never in fact became members, and where others became members who were not returned. Neither do *election and return* create membership. These acts are nothing more than the designation of the individual, who, when called upon in the manner prescribed by law, shall be authorized to claim title to a seat. This designation, however, does not confer a perfect right, for a person may be selected by the *people* destitute of certain qualifications, without which he cannot be admitted to a seat. He is, nevertheless, so far the representative of those who elect him, that no vacancy can exist until his disqualification be adjudged by the House. Yet it would be easy to state cases where he would not be permitted for a moment to occupy a seat, notwithstanding the regularity of his election and return. To no practical purpose could he ever have been a member. So also if a person duly qualified be elected and returned, and die before the organization of a House of Representatives, we do not think he could be said to have been a member of that body, which had no existence until after his death. We say which had no existence; for we consider that conceit altogether fanciful which represents one Congress succeeding to another as members of the same corporation. It has no foundation either in fact or in the theory of our Government. Each House of Representatives is a distinct legislative body, having no connection with any preceding one. It commences its existence unrestrained by any rules or regulations for the conducting of business, which were established by former Houses, and which were binding upon them. It prescribes its own course of proceeding, elects its officers, and designates their duties. Even joint rules for the government of both Houses of Congress are not binding upon a new House of Representatives, unless expressly established by it. Although the Fourteenth Congress had never assembled, the Fifteenth would have met under the constitution, clothed with every legislative power, as amply as it was enjoyed by the Thirteenth. The constitution does not define the time for which Representatives shall be chosen. It is satisfied, provided the choice take place at any time in every second year. The rest is left to the discretion of each State. Accordingly, in some States Representatives are usually

chosen for one year and seven months, and in other States for a longer time.

The privilege of exemption from arrest, granted by the constitution to Representatives before a meeting of the House and after its adjournment, furnishes no argument in favor of their membership at such times. Exemption from arrest is a privilege as old as the Parliament of England. There it is extended not only to members, but to their servants, horses, and carriages. Our constitution adopts the very words of the common law, but restricts the privilege to members. In both countries the object is the same, not the benefit of the member, but of the public service. It is an essential incident to the right of being represented, and a consequence of that right. But that membership is not coextensive with the enjoyment of that privilege is manifest, from the consideration that such a construction might make the members of one Congress continue in office, not only after the Congress had expired, but also after the next Congress was actually in session. This construction, therefore, is not only absurd, but it serves to illustrate the fallacy of that suggestion which fancies the Representatives of one Congress succeeding to the seats of their predecessors as members of the same corporate body.

The privileges of franking letters and exemption from militia duty are not granted by the constitution. They are established by law, and liable to be changed at the will of the Government. They have been extended, and may be restricted as public convenience shall require. Previous to the last Congress, the privilege of franking was not enjoyed until after the commencement of each session. But as that does not prove negatively that persons elected to the House of Representatives were not members before that time, so the existing law does not prove affirmatively that they are. It is true that the words, "members of the House of Representatives," are used as descriptive of the persons to whom the privilege is granted, but it certainly was used without intending thereby to express an opinion, much less to decide, when membership commences, and probably without in anywise adverting to that inquiry. The late war had created claims in every part of the country, which it was found convenient to send by mail to those who were elected to Congress in the several districts, previous to their leaving home. The law was passed with a view to the convenience of these public claimants, as well as to that of the Representatives elected. We have seen that in England this privilege is enjoyed before the commencement of membership, and probably for a reason similar to that above mentioned.

It is not now necessary to inquire what construction ought to be given to the act which exempts "members of both Houses of Congress" from the performance of militia duty. We do not know that it has ever received a judicial exposition, and we presume that the practice under it, by the officers of the militia, furnishes no very high authority on the constitutional question before us.

In regard to the danger apprehended from Executive influence in the concerns of legislation, we might rest satisfied with the remark that the business of forming a constitution is not confided to us; ours is a more humble duty, it is to expound the text by a fair interpretation; we can neither add nor diminish; the object of our inquiry is, not what ought to be, but what is.

Whoever looks into the constitution will find provisions to guard the entrance of the legislative hall against those whose personal and immediate interest would be advanced, by perpetuating offices and increasing salaries; but he will find none for the purpose of excluding the influence of Executive patronage. The framers of the constitution either did not apprehend danger from that source, or they thought it impracticable to prevent it without hazarding still greater mischief. The great offices of the Union are objects of high and honorable ambition; they are left as open to the members of this House as to others, and they can only be obtained through Executive favor. Nay, laws may be passed on the last day of a Congress creating offices and fixing their salaries, and on the next day the members, by whose votes they were created, may be appointed to fill them. The only antidote provided against an abuse of this pervading influence is the elective franchise. No dependant on the Executive can take a seat in this House. If any member become such, his seat is vacated, his power returns to the people. By a faithful and intelligent exercise of it, they may correct errors and punish delinquency. This is the regenerating principle of the constitution. If this remedy fail, it will be in vain to look for another. The constitution was provided for a brave, wise, and virtuous people. If the citizens of the United States ever cease to deserve this character, our present political institutions will be found unsuited to their condition. This is the only constitutional answer we can give to the suggestion of possible danger from Executive influence.

In fine, we have examined the memorial of Mr. Hammond with deliberate attention, and are of opinion that Mr. Herrick has not rendered himself incapable of being a member of this House, by reason of having held the office of Attorney of the United States after the 4th of March and until the 29th of November last, and respectfully submit the following resolution:

Resolved, That Samuel Herrick is entitled to a seat in this House.

TUESDAY, January 6.

National Flag.

Mr. WENDOVER, from the committee appointed to inquire into the expediency of altering the flag of the United States, made a report, which was read; when Mr. W. reported a bill to alter the flag of the United States; which was read twice, and committed to a Committee of the Whole.

The report is as follows:

That they have maturely considered the subject referred to them, and have adopted, substantially, the report of the committee to whom was referred the same subject at the last session of Congress, as forming a part of this report. The committee are fully persuaded that the form selected for the American flag was truly emblematical of our origin and existence as an independent nation, and that as such, it having met the approbation and received the support of the citizens of the Union, it ought to undergo no change that would decrease its conspicuity, or tend to deprive it of its representative character. The committee, however, believe that an increase in the number of States in the Union since the flag was altered by law, sufficiently indicates the propriety of

such a change in the arrangement of the flag as shall best accord with the reasons that led to its original adoption, and sufficiently point to important periods of our national history.

The original flag of the United States was composed of thirteen stripes and thirteen stars, and was adopted by a resolution of the Continental Congress on the 14th of June, 1777. On the 13th of January, 1794, after two new States had been admitted into the Union, the National Legislature passed an act that the stripes and stars should, on a day fixed, be increased to fifteen each, to comport with the then number of independent States. The accession of new States since that alteration, and the certain prospect that at no distant period the number of States will be considerably multiplied, render it, in the opinion of the committee, highly expedient to increase the number of stripes, as every flag must, in some measure, be limited in its size, from the circumstance of convenience to the place on which it is to be displayed; while an increase would necessarily decrease their magnitude, and render them proportionably less distinct to distant observation; this consideration has induced many to retain only the general form of the flag, while there actually exists a great want of uniformity in its adjustment, particularly when used on small private vessels.

The national flag being in general use by vessels of almost every description, it appears to the committee of considerable importance to adopt some arrangement calculated to prevent in future great or expensive alterations. Under those impressions, they are led to believe no alteration could be made more emblematical of our origin and present existence, as composed of a number of independent and united States, than to reduce the stripes in the flag to the original number of thirteen, to represent the number of States then contending for and happily achieving their independence, and to increase the stars to correspond with the number of States now in the Union, and hereafter to add one star to the flag whenever a new State shall be fully admitted.

These slight alterations will, in the opinion of the committee, meet the general approbation, as well of those who may have regretted a former departure from the original flag, as of such as are solicitous to see in it a representation of every State in the Union.

The committee cannot believe that in retaining only thirteen stripes it necessarily follows they should be distinctly considered in reference to certain individual States, inasmuch as nearly all the new States were a component part of, and represented in, the original States; and inasmuch, also, as the flag is intended to signify numbers, and not local and particular sections of the Union; nor can the committee view the proposed inconsiderable addition to be made on the admission of a new State in the light of a departure from that permanency of form which ought to characterize the flag of the nation. The committee respectfully report a bill.

Compensation to Members, &c.

On motion of Mr. HOLMES, of Massachusetts, the several orders of the day preceding the bill to fix the compensation of the members of the Senate and House of Representatives, were postponed, and the House resolved itself into a Committee of the Whole on the said bill.

[The bill provides that the daily compensation of the members, during their attendance on Congress, shall be nine dollars, and the allowance for travelling to and from the seat of Congress, at the rate of nine dollars for every twenty miles of the distance.]

Mr. ROSS, of Pennsylvania, by way of trying the sense of the committee on the subject, moved to strike out the word *nine* and insert the word *six*, as the amount of daily compensation.

The question on this motion was loudly called for, indicating a disposition to take the sense of the House without debate.

Mr. DESHA said he should support the motion made by the gentleman from Pennsylvania, however unfashionable it might be, which was to strike out the word nine and insert six, and, he suspected, should be found in a small minority; but that should not prevent him from discharging his duty. It is a little mortifying, said he, to see such extreme anxiety manifested on the occasion. Does it look dignified in this body, because they are immediately interested in this measure, to see them urge it forward to the exclusion of all other business that is entitled to precedence under the rules of the House? I sincerely wish that we may not have the same scene acted over again, that was acted the first session of last Congress, when the compensation bill, of famous memory, was on the carpet. This bill contemplates giving the members nine dollars per day, and nine dollars for every twenty miles in travelling to and returning from the Seat of Government. Do the gentlemen seriously believe that the people will submit to this without a murmur? If they do, I suspect they will be most egregiously mistaken.

Nine dollars per day! We commence our sessions at twelve o'clock, and have generally terminated them this session at about three, amounting to about three dollars per hour. Would not the honest and industrious farmer or mechanic, who rises early and works late, and, by his greatest exertions from one end of the year to the other, considers he is doing a good business, if, not getting rich, he can save at the end of the year, clear of all expenses, between fifty and a hundred dollars; I say, would not such men think three dollars per hour high pay, and ought not the opinions of such men to be respected? They certainly ought.

Mr. LITTLE, of Maryland, then moved to strike out "nine" and insert in lieu thereof "eight" dollars as the daily pay.

The question on reducing the daily pay from nine to eight dollars, was decided in the affirmative—yeas 99, nays 79.

So the daily pay was fixed at eight dollars.

WEDNESDAY, January 7.

Contempt of the House.

Mr. WILLIAMS, of North Carolina, rose, and addressed the House in the following words:

Mr. Speaker, I lay before the House a letter addressed and delivered to me by a person called Colonel John Anderson. That man has mistaken me much. Wherever I am known, at

this place and in the country from whence I came, no attempt of the kind would have been made. I feel it a duty to lay the letter and the statement thereon, made by myself, before the House. My feelings are too much excited, nor would it be my duty, to make any remarks on the subject. It is for the House to determine what shall be done.

The papers handed by Mr. WILLIAMS to the clerk were then read, as follows:

WASHINGTON, *Jan.* 6, 1818.

HONORED SIR: I return you thanks for the attention I received on my claims to pass so soon. Mr. Lee will hand you some claims from the River Raisin, which will pass through your honorable committee; and I have a wish that the conduct of the British in that country may be related in full on the floor of Congress; which will give you some trouble in making out the report and supporting the same. I have now to request that you will accept of the small sum of five hundred dollars, as part pay, for the extra trouble I give you; I will present it to you so soon as I receive some from Government. This is *confidential*, that only you and me may know any thing about it; or, in other words, I give it to you as a man and a mason, and hope you belong to that society. Sir, should it happen that you will not accept of this small sum, I request you will excuse me; if you do not accept, I wish you to drop me a few lines; if you accept, I wish no answer. I hope you will see my view on this subject—that it is for extra trouble.

I will make ont a statement, and present the same to the committee, which will be supported by General Harrison, Colonel Johnson, Mr. Hulbard, Mr. Meigs, Postmaster General, Governor Cass's report as commissioner, and others. Relying on your honor as to keeping this a secret, and your exertions in passing those claims as soon as possible, I need not inform you that we are as poor unfortunate orphan children, having no representation in Congress—so must look on your honorable body as our guardians. Pardon this liberty from a stranger.

I am, with high esteem, your most obedient and humble servant,

JOHN ANDERSON.

The Hon. LEWIS WILLIAMS.

After breakfast this morning, George, a servant, came into the dining room, and told me that a gentleman was in my room waiting to see me. I stepped into my room, and Colonel John Anderson was there. He handed me a letter, observing at the same time, that he had prepared that letter for me, and that, perhaps, it would require some explanation. I read over the letter with attention; and, having done so, observed to Colonel Anderson it was a very surprising communication. I then started to Mr. Wilson's room, immediately adjoining my own. When in the act of opening my own door, he begged I would not show the letter. I made no reply to this, but stepped into Mr Wilson's room, and asked him to do me the favor to walk into my room. This Mr. Wilson did, following on immediately behind me. After we had got into my room, in the presence of Colonel Anderson, I handed the letter to Mr. Wilson, and, observing that it was a very extraordinary communication, requested him to read it. When Mr. Wilson had read, or was nearly done reading the letter, I told Colonel Anderson that I repelled with indignation and contempt the offer he had made to me in the letter. Colonel Anderson said he asked my pardon; that it was designed only as a small compensation for the extra trouble he expected to give the Committee of Claims in examining the claims from the Michigan territory, and exposing the conduct of the British during the war; that it was foreign to his intention to attempt any thing like a bribe, and requested me to burn the letter, or to give it to him. I told him I should do neither; that his offence was unpardonable, such as I could not forgive, and ordered him to leave the room instantly. Col. Anderson then begged pardon, and asked forgiveness with excessive earnestness. I told him I would listen to none of his apologies; that his offence was an attack upon the integrity of Congress generally, and upon mine personally and particularly; that no one should ever have my pardon, or expect my forgiveness, who should suppose me capable of such an influence as he had attempted to practise upon me. Again I told Colonel Anderson to leave my room. He advanced to the door, where he stood for some time, endeavoring to obtain my pardon, *as he said*. I told him it was in vain to ask it; that, as a member of Congress and of the Committee of Claims, it was my duty to examine his claims, and, if just, support them; if unjust, oppose them; that his offer was an attempt to influence my mind in opposition to my duty, and, as such, could not be forgiven. He then desired me either to burn the letter or give it to him. I replied that I should do neither, and again ordered him to leave my room. Whereupon, he did leave the room. Mr. Wilson, after talking on the subject of the letter for some time, suggested to me the propriety of calling in Mr. William P. Maclay. I stepped to his room; but, as Mr. William P. Maclay was not in, I asked Mr. William Maclay, a room-mate of Mr. William P. Maclay, to come to my room. He complied with my request; and, shortly after he arrived in my room, Mr. William P. Maclay also stepped in. These gentlemen, Messrs. Wilson, William Maclay, and William P. Maclay, were in my room at the time the servant called to Mr. Wilson, and said a gentleman was below wishing to see him. Mr. Wilson walked out of the room, and was gone a few minutes. After he returned, he observed that Colonel Anderson was the person who had sent for him; that Colonel Anderson's business was to obtain his interference to put a stop to further proceedings on the subject of his letter to me. The precise conversation between Mr. Wilson and Colonel Anderson can be related by the former with minuteness.

LEWIS WILLIAMS.

JANUARY 7, 1818.

The papers having been read through, Mr. W. WILSON, of Pennsylvania, referred to in the above narrative, handed in a statement of the facts which fell under his observation, entirely corroborating those stated by Mr. WILLIAMS, as far as they came under the observation of the former.

Mr. FORSYTH, of Georgia, moved that the House do come to the following resolution:

Resolved, That the Speaker do issue his warrant, directed to the Sergeant-at-Arms attending the House, commanding him to take into custody, wherever to be found, the body of John Anderson, and the same in his custody to keep, subject to the further order and direction of this House.

Mr. HARRISON, of Ohio, rose in consequence

of his name having been referred to in Colonel Anderson's letter. He had met with Colonel Anderson, he said, in the course of his military service, and had always heard him regarded as a highly respectable man; and well knowing his services, and the sufferings of his family, during the war, he had felt a warm interest in his favor. In the course of this morning, Col. Anderson had sent for him and his friend, Colonel Johnson, out of the House, and, with all the agitation belonging to terror or to conscious guilt, had informed them of his having done an act which he feared would be regarded, as Mr. H. was sure it would by every member, as calling for the severest animadversion. They had informed him, Mr. H. said, that they would not justify his conduct; nor, were it brought before the House, could they say any thing in extenuation of it.

Mr. JOHNSON, of Kentucky, expressed his sincere regret on account of the occurrence which had just taken place, not on account of the individual implicated—though, surely, he was to be pitied—but on account of the gentleman from North Carolina, who, on this occasion, had taken that course dictated by a just sense of his own honor and the dignity of his official station; and on account of the suffering inhabitants of Detroit and Michigan, generally, that they should have misplaced their confidence in one whom, until this day, Mr. J. said, he had himself held in the highest estimation. It must have been infamy of motive, or the grossest ignorance of the nature of the Representative character, that could have produced this unwarrantable conduct.

Mr. TERRY, of Connecticut, inquired whether, according to our forms of proceedings, and to our constitutional provisions, a general warrant, as proposed, could be issued? Was it not opposed, in itself, in its nature, to the principles of civil liberty?

The SPEAKER observed that, in the practice of the House, happily, instances were extremely rare where such a warrant became necessary; no such case had occurred within his observation. But there could be no doubt, when an offence was committed against the privileges or dignity of the House, it was perfectly in its power to issue a warrant to apprehend the party offending.

Mr. FORSYTH turned to a case on record—and he was sorry there was such a case on record—where this proceeding had taken place, in the year 1795, in which a bribe in land had been offered to one or more members. Mr. F. then conformed his motion to the terms of that precedent, as above stated, from which it had before a little varied.

Mr. LIVERMORE, of New Hampshire, asked, for information merely, whether the facts on which the warrant was to be issued, should not first be substantiated by oath. The statement came, he knew, from a most respectable source; but was not an oath necessary to justify such a warrant?

The SPEAKER said—Certainly not.

The question on Mr. FORSYTH's motion was then taken, decided in the affirmative, and ordered to be entered *unanimously*.

The warrant was forthwith issued.

Compensation to Members.

The question on the passage of the bill was decided in the affirmative—yeas 109, nays 60; so the bill was passed, (at eight dollars per day, and eight dollars mileage,) and sent to the Senate for concurrence.

THURSDAY, January 8.

Another member, to wit, from New York, DAVID A. OGDEN, appeared, produced his credentials, was qualified, and took his seat.

Case of John Anderson.

The SPEAKER having apprised the House that the Sergeant-at-Arms had taken the body of John Anderson, pursuant to the warrant to him directed, and held him in custody, Mr. FORSYTH, of Georgia, submitted for consideration the following resolution:

Resolved, That a Committee of Privileges, to consist of seven members, be appointed, and that the said committee be instructed to report a mode of proceeding in the case of John Anderson, who was taken into custody yesterday by order of the House; and that the same committee have leave to sit immediately.

Mr. BEECHER, of Ohio, rose in opposition to this proceeding. The offence of this man, in every sense but a legal one, he was not dispose to deny. But it was another question, whether the House was justified in the course it was about to pursue. Was any authority therefor given in the constitution? None. Was any law to be found on the statute-book giving it? None. The mode of punishing bribery was, to resort to a court of justice, and there only could it be punished. In this House, he said it was impossible to proceed correctly in a trial for an offence of this character; and the trouble proceedings of this kind would impose on the House, and the evil of delay they would cause in their ordinary legislative business, afforded strong reasons, if others were wanting, to consult their authority, and see whether in fact the House possessed any authority to act on the case. The fifth section of the first article of the constitution, he said, provided that each House might determine the rules of its own proceedings; but no part of the constitution gave to the House authority to arrest and bring forward any individual for improper conduct to any member of this House. The courts of the country had made, in their practice, what is called a common law; but Mr. B. said, if there existed any common law to justify these proceedings of the House, it was unknown to him. The great powers assumed by the Parliament of Great Britain in this respect, had been a matter of great complaint in that country; and he presumed it would not be contended that the prac-

tice of that body was to form a rule of conduct for this House. Neither, Mr. B. said, did he think it essential that this House should possess the power of arresting and bringing individuals to trial before us; the courts of justice being open to prosecution and redress for any injury of this sort. The House, as any other legislative body, possessed inherently the power to protect itself from indecorum and insult; but it had no power to confine and commit individuals for acts done elsewhere. He did not believe the House possessed authority to arrest an individual in this case, any more than for an assault and battery on a member at any distance from the Seat of Government—a power which, he contended, the House did not possess. In another part of the constitution, he said, particular privileges were accorded to members; and the enumeration of particular powers, in any instrument of that character, was an exclusion of all others. For other injuries received, than those in violation of that clause of the constitution, Mr. B. said, members have the same redress as any other individuals. Mr. B. said he did not believe the House ought to have the power it was about to exercise; the constitution had not given the House any such power, nor had it been conferred upon them by any law.

Mr. FORSYTH said, if the position of the gentleman was correct, the House had already violated the constitution. The object of the proposed appointment of a committee was to inquire how the House ought now to proceed. If the committee concur with the gentleman from Ohio, they would report that the individual now in custody ought to be discharged; if otherwise, they would report what further course the House ought to pursue. But, Mr. F. said, admitting that all the gentleman had said was true, it was no reason why this committee should not be appointed. Mr. F. did not wish to be understood as doubting the power of the House, because he believed it had full power to proceed; and he knew that this House and the other branch of the Legislature had, in other cases, exercised similar powers. Until he was convinced, by solemn investigation, that the House did not possess the power, he would not, for one, consent to refrain from its exercise in the present case.

Mr. LIVERMORE, of New Hampshire, hoped, he said, that but one resolution would pass the House on this occasion, and that this one should be, that John Anderson be discharged. First, he said, on account of the irregularity of the proceeding in the first instance. Our ideas, said he, of Congressional privileges, appear to rest on our knowledge of British Parliamentary privileges, which, he conceived, were widely distinct in their natures. In Great Britain the Legislature possesses all power; and almost every act of the Parliament becomes a part of the constitution of the land. That is an unlimited Legislature. The Congress of the United States, he said, was differently constituted. In a case of this kind occurring in Great Britain, an oath would not be required; but, said Mr. L., we are, in this respect, restricted in our power, by the express declaration in the constitution, that no warrant shall issue except sustained by oath. This provision, he said, being contained in the fourth article of the amendments to the constitution, had more weight with him than if contained in the original instrument, having been the result of the after-thought and mature deliberation of the nation. Far be it from him, Mr. L. said, to suggest that full faith should not be given to any thing advanced by the honorable member from North Carolina; as a man he believed him implicitly, but as a member not at all—no more than, as a judge, he would believe a man in court without an oath. The word of the Chief Justice of the United States himself would not be taken in court except on oath. Mr. L. said he greatly respected the gentleman he had referred to, but he did not consider the House at liberty to take a step which would compromit the meanest man in the United States, except on the oath of his accuser. Besides, said Mr. L., we have no authority over John Anderson, admitting the charge against him to be substantiated. There is no statute of the United States, though there are in most of the individual States, declaring bribery an offence. Far be it from me to contend that this body cannot protect itself; that we can do by our own rules and regulations, but we cannot extend them beyond the verge of this House. The Sergeant-at-Arms might command the whole military force of the United States, could it possibly become necessary, to put out of this House a man disturbing its peace. Mr. L. said he knew very well there was a precedent on record of a course similar to that now proposed; and he also knew that the most eminent men of the United States deprecated that decision when it took place. When the subject was before the Congress, in 1800, he believed those who favored the proceeding sustained themselves on the authority of the practice of the British Parliament; they were a high-handed party majority, full of British notions and fond of British precedents. Those who were opposed to that course were the whole body of the Republican members, with the great Jefferson at their head. Mr. L. hoped, he repeated, that but one resolution would pass on this occasion; and that it should be, that the warrant for the apprehension of John Anderson had been irregularly and improperly issued, and that he be therefore forthwith discharged.

Mr. TUCKER, of Virginia, said he should not do his duty, if he did not, on the present question, give the gentleman from Georgia his hearty support; not that he was certain he should give him the same support in all his views of this subject. The proper course, in the opinion of Mr. T. would be, to provide by a general law for the punishment of contempts against either House of Congress; but, he asked, was it not the duty of the House on this, and

on every other occasion, to deliberate in that manner which afforded the best lights on any subject, and which it became the dignity of the House to pursue? No matter how light the subject might be that was proposed to the consideration of the House, he should not choose to act on it, without calling on some committee of the House to take it into their particular consideration, and to produce a clear and connected view of it. And was this an occasion on which, by a hasty procedure, to depart from that course? Would the House at once declare that its members might be approached by the vilest miscreants on the face of the globe, and that it could take no steps to protect their rights? Is any member prepared to say, that there exists in this House no power to repel the approaches of bribery and corruption? The constitution creating this body is a dead letter —is mere waste paper—said Mr. T., if we have no power to protect ourselves from violence of this description in the exercise of our duties. That part of the constitution giving to Congress all power necessary to carry into effect the delegated powers, has no value if it does not apply to the present case. For his part, Mr. T. said, he had no manner of doubt as to the power of this House to protect itself, and none of the expediency of the course now proposed. But, at the same time, he doubted the propriety of suffering the laws to remain in their present situation, so as to compel the House to act in this way. Until a general law should pass, Mr. T. said, he had no doubt the House had the power within itself to punish any person who should attempt to bribe one of its members. The proper course, he conceived, would be, warned by this incident, to appoint a committee to report a bill to punish such offences, &c. He should not commit himself at present as to the final course for the House; but it appeared to him, that every member, from the necessity the House was under of protecting itself, would wish to see that course pursued which would best promote a due consideration of the subject —which was the usual process of referring the subject to a committee.

Mr. HOPKINSON, of Pennsylvania, rose in support of the proposition before the House. This question, he said, was not a new one; it had been heretofore solemnly debated and adjudged; and all the objections now expressed had been brought forward in their greatest force, without effect; and the precedent then established was entitled to respect. In that case to which he referred, it was well known a full opportunity was given for the freest discussion; the parties arraigned at the bar having been heard by their counsel on this question. But, Mr. H. said, the weight of that precedent was attempted to be destroyed in a most extraordinary manner by the honorable gentleman from New Hampshire, who had intimated that the House at that day did not decide the question on a knowledge of the provisions of the constitution, but on party principles. Mr. H. begged the gentleman from New Hampshire to tell the House how he knew the motives of the members of that Congress; how he acquired the power to enter their hearts, and see that they did not decide this question on our own laws, but on those of a foreign country? Why did he seek to condemn them and their decision, by a sort of allusion, which, Mr. H. said, as an argument, would not be listend to on this floor? That respectable and enlightened Congress, Mr. H. said, had decided the question before them on the principles of our own constitution and law; if their decision was corroborated by the practice of the Legislature of any other country, there was nothing in that circumstance to weaken the force of the precedent. But the Republican members opposed that decision! Are questions of this sort, Mr. H. asked, to be decided by the particular political denominations of those who voted *pro* or *con?* Is that to be the rule by which decisions on such questions are to be received or regarded as precedents? If so, as gentlemen took the liberty sometimes of exchanging sides in politics, that which was law to-day might not be to-morrow; and the question would be forever unsettled. The question now raised, Mr. H. considered as having been decided by an authority which, though not decisive, was yet entitled to the highest respect, and ought to be respected. The observations of the gentleman from New Hampshire having been disposed of, which ought never to have been made, Mr. H. proceeded to notice some other views which had been thrown out. It had been objected to the legality of the procedure, that the statement on which the warrant was founded, was not on oath. Was not the representation of a member of this House, he asked, a sufficient ground of proceeding? The character of this House must be sunk to a low ebb, if the representations of its members were not to be received as true. In the case of Randall and Whitney, the proceedings of the House had been similar to those of this day; information of the facts was given by members in their places, and the House proceeded, as in the present case, without calling on the members to take the book and testify that what they had stated was true. In such cases, said Mr. H., we have ever been guided by precedent, and we have done right. But, it was said by the gentleman from Ohio, that there was nothing to be found in the constitution to justify this proceeding. When, Mr. H. said, the constitution gave being to this body, it gave to it every attribute necessary to its security and to its purity. The courts of justice, which had been mentioned, do exercise similar power; any attempt to obstruct the due course of justice, or to corrupt its source, is an offence punishable in a summary manner. It was equally necessary such a power should reside in this House; because, if persons hanging about this hall, with their private claims, and besetting the paths of the members, offering them bribes for their votes and influence, were to be referred to the courts of justice for their punishment, there was

no protection for the independence, none for the feelings, none for the character of this House. If we are careful that the laws be purely administered, ought we not to be equally so that they are purely made? Is the juror who administers the law to have protection, and the legislator who makes the law to have none? That the courts have the power to punish contempts, is a matter, said Mr. H., which could not be doubted here; and that the Legislature possesses the same power was to him clear, and for the same reason. Adverting to the provision of the constitution, which privileged members of Congress from arrest during their attendance at the session of their respective Houses, and on going to and returning from the same; if the gentleman will tie us down to the letter of the constitution, said Mr. H., how would he punish a man who should arrest a member contrary to this provision? Would he sue him at law? and where do you find in the constitution any thing by which you shall know *how* to proceed to punish him? Would not the gentleman do it in the way in which we are going on? And why? Because, said he, we possess the power to protect ourselves in the exercise of our duties. How would the gentleman proceed in the case of the arrest of himself and half a dozen of members, whose votes would turn the scale on a pending question of the highest moment? Discharge the members, and they might be arrested again, if there was no summary process against the offender. If there was no redress in such a case, but to turn the person offending over to suit or indictment in the courts, the constitutional provision was a mere illusion. But gentlemen themselves did not agree. One, said he, refers the House for redress of their complaint, in the present case, to the courts of justice; the other says that bribery is no offence, there being no law to punish it; of course the courts are not open to the complainant. So that, between them, Congress is in a strange predicament. We are, without remedy, at the mercy of every infamous man, who is disposed, either for the purpose of private malice or personal emolument, to play off his arts against the Representatives of the people. Mr. H. concluded by saying, that he hoped the House would decide that it had the power, not only to protect its existence, but to preserve its character so pure and unsullied as to be exempted even from suspicion.

Mr. FORSYTH rose to correct an extraordinary mistake which the gentleman from New Hampshire had fallen into in regard to the precedent to which he had referred. That precedent was found in the Journal of the year 1795, before the division of parties, which has since existed, had taken place. It was not, therefore, a party question, but a great constitutional point, which was then decided. On referring to the Journal for the final vote, it appeared that seventy-eight members had voted in the affirmative, and but seventeen against it. For another fact he was indebted to the information of a gentleman who was in a situation to have known it, that, of those seventy-eight, thirty-nine were subsequently on the Republican side of the question, and known as Republicans in the great parties into which the country soon after divided. Among these were some of the names most dear to the Republican party, and by this he meant no reflection on those who differed from them on that question. He need only refer to the names of Gallatin, Giles, Baldwin, Findlay, and many others of the same grade—and were not these Republicans? They were; and each would bear a comparison with any man who had ever since called himself a Republican. They were the master spirits who headed the Republican party when it became one, and guided it in all its movements. But, Mr. F. said, he should be glad to find out how the gentleman discovered the great name of Jefferson to support him in his doctrine? That great man was not then a member of Congress; nor, Mr. F. said, did he know that he had expressed any opinion on the question. He did not find in the Manual composed by him any expression of an opinion that the constitution had been violated by that decision. There was a statement of the arguments on both sides of that question; but so far from expressing the opinion that the constitution had been violated, the Manual considered the question as unsettled. It was settled, then, on the ground that this body, and all others, corporate as well as individual, had the right to protect themselves from insult and violence. How, Mr. F. asked, would gentlemen proceed to punish an individual in the gallery of this House, who should consider it a great theatre, and exercise the privilege which insolent persons use in the gallery of a theatre, of disturbing the audience and annoying the performers? Suppose some person who was unfriendly to a member speaking, or who did not like the monotonous tone of his voice, should amuse himself by throwing nuts or apples at his head; by hissing on the one hand, or applauding on the other; by what authority would the House exercise the power of driving him away, or taking him into custody? Could any one doubt the power? But was it to be found, in so many words, in the constitution? Gentlemen might say, this would be within our own walls, and therefore a different case from that now under consideration. Mr. F. regarded them as standing on the same footing; within and without, here or in any part of the city, if a member was insulted in the discharge of his duty, this House had, in his opinion, the right and the power to punish the offender. He hoped, at all events, the House would make the inquiry, and not stay its proceedings in this case, until something stronger had been alleged against them than any thing he had heard.

Mr. PITKIN, of Connecticut, said he did not rise to debate the power of this House; for, he said, unless the House had some power to protect itself and its members in their persons and integrity, from violence or insult, they might as

well adjourn and go home. But he rose to refer to one or two cases which had occurred subsequently to that which had been particularly referred to, to see how far the House had proceeded. A case had occurred, in 1810, of an assault and battery on a member of this House, not within the walls of the House, not during its sitting, and originating in circumstances having no relation to his duty as a member of the House; but, while here attending his public duty, that gentleman had been considered as under the protection of the authority of the House, and the House had accordingly taken cognizance of the assault; and justly—for, if the House had not power to protect its members while going and coming therefrom, it was in vain for them to attend here. In another case, a committee had been appointed to inquire into the promulgation of certain secret proceedings of the House. The individual promulgating them was brought to the bar of the House, and compelled to answer the questions propounded to him. If he had refused to answer the questions put to him, undoubtedly he would have been committed to prison for that contempt. Having no doubt of the power of the House in this respect, he hoped the House would act as proposed.

Mr. LIVERMORE again rose. He said he should suppose that no one had understood him to say that the Republicans were right or wrong, or that the Federalists were right or wrong, or to draw any distinction between the parties into which the country had been divided. He respected good men of all parties, and none other but good men of any party. He had said that an oath was necessary to support a warrant, and produced the constitutional provision, "that no warrants shall issue, but upon probable cause, supported by oath or affirmation." How am I answered? Why, that every member of this House is entitled to such high credit, that his word is as good as any other man's oath. The Chief Justice of the United States is sworn to support the constitution, and to administer justice; but, he is not therefore sworn to every thing, and his mere word would not be taken in this matter in controversy in any court. But, it seemed, that the rights of individuals were to be uprooted, and an express provision of the constitution disregarded, on the word of a member, because he was sworn to support the constitution. Mr. L. said he had as high an opinion of the credit to which members of this House were entitled, as any man could have, but he could not, in such a case as this, believe them, except on oath, considering himself bound to protect the rights of every individual in the United States, &c. The gentleman from Pennsylvania, Mr. L. continued, had found fault with some of his expressions. A man cannot take his words out of his mouth, look at them, put them in again, and speak as he could wish; and Mr. L. said he might have gone further than he intended. Whether those who established the precedent of 1795 were Republicans, or be they whom they might, they had acted on precedents drawn from the British Parliament, a body whose powers in this respect were not analogous to those of the Congress of the United States. The Parliament of Great Britain is a perpetual convention, of which every law and practice becomes a part of the constitution. But we are a *limited* Legislature, and the constitution controls us. And when such a question as this is presented, how shall we get over it? Mr. L. disclaimed any intention to accuse those who established the precedent in the case of *Whitney* and *Randall* of having acted wrongly, against conviction. God forbid he should have said so; but, if he had been a little warm on the subject when up before, perhaps the gentleman from Pennsylvania (whom no man respected more than he) had warmed himself as well as the gentleman from New Hampshire. Let that gentleman, however, reconcile the proceedings of Congress to that provision which he had referred to. It was no way to put a man down to say, that one man's word is as good as another man's oath. It was saying what the constitution had not left the House at liberty to say. But, it was asked, could Congress do nothing to protect themselves? Must they be trampled on, and spit upon, without remedy? Mr. L. said he had admitted before, and he now repeated, that the Sergeant-at-Arms, within the House, might command the whole force of the country, the Army and Militia, and, supposing such a case possible, might bring a seventy-four up the Eastern Branch to fire upon the Capitol; but the House had not the extensive power for which gentlemen now contended. Suppose he were to rise and say, that, as he was coming here, the Governor or Chief Justice of New Hampshire had offered him a bribe; would this House send out its warrant and bring him here? Would this be constitutional? He hoped not. If the procedure would not be warrantable as to such men, neither would it to the meanest man in the State, for no man there was a slave; and Mr. L. would not stretch the power of the Government to oppress the meanest or the greatest.

Mr. SERGEANT, of Pennsylvania, said, as the motion now before the House, was merely for the appointment of a committee of inquiry, he could see no reasonable objection to it. The matter proposed to be inquired into was not, he said, a question merely between the individual accused and the House; but it was one in which the nation was interested; and the House would commit as great an error if they neglected to inflict a proper punishment on the offender in such a case, as if they were to inflict punishment where no offence had been committed. The immediate question was not, whether the members of the House were assailable by bribes; whether their feelings were to be wounded with impunity; whether they were liable to the arts of seduction; but it was a general question whether the House would or would not inquire what authority it had to punish those offend-

ing in this respect. If we have the authority, said Mr. S., we are bound to inflict punishment in the case before us; for if the offence supposed to have been committed shall be proved, can any case occur hereafter more requiring the exercise of the powers of this House. If you will not exercise what power you possess now, there is no species of attempt which may not be made with impunity on the honor or on the feelings of this House; there is no practice, however corrupt, which may not be attempted. For upon whom was this attempt made? Upon a member who is at the head of the Committee of Claims, that committee whose business it is to determine between the claims of individuals and the interest of the United States, coming in conflict before them; in doing which the chairman of that committee has to contend, on the part of the United States, against the interest, urged in every possible shape, of the individuals whose claims are preferred to this House. And would the House allow the member who occupies that station of sentinel at the door of the Treasury, to be placed in a situation to be exposed to all the gross and corrupt attempts which may be made on him, if they are permitted to be made with impunity? Surely not. If, then, Mr. S. repeated, the House would not, in the present case, exercise the power of punishing for contempt, there never would occur one in which it would.

There were, Mr. S. said, in the present, as there must be in all similar cases, two offences committed; the one, a crime for which the individual might be handed over to the courts of justice for the punishment; the other an offence against this House, for which the individual might be proceeded against and punished in a summary manner. He did not say that both these courses might not be pursued. But he did admit that the question whether the House should or should not interfere, was at all times a question on which a sound discretion must be exercised when the case arises. In this way he would answer the gentleman from New Hampshire, who had supposed extreme cases. This House, said Mr. S., may certainly in such cases rely on its own discretion, that it will not be impelled into a course which is unjust. The case now before the House was not such a case, however, but one of a totally different character. If the House proceeded no further now, the privileges of the House were surrendered in every case, unless for what should be done in the face of the House. If the doctrine of the gentlemen from Ohio and New Hampshire prevail, said Mr. S., we shall be assailable at our door, on the staircase, everywhere until we come into this House, and this House is organized. Was this possible? And yet, he said, he did not suppose cases as extreme as those put on the other side.

Mr. BALL, of Virginia said, if this proposition to appoint a committee had been made in the first instance, he should have had no objection to the proposed inquiry. But he was under the impression that this inquiry into their power ought to have been had before the warrant was issued. Suppose this person had been in a distant part of this country, in the District of Maine, for example: would this House arrest him, bring him here, and then inquire whether they had power to do so or not? Would not this be a grievance of the highest character against the laws of the land, and against the constitution itself? Supposing, after putting a person, accused of contempt, to all this inconvenience, and holding him in durance, it should appear that he was not amenable to the authority of this House; would not this proceeding have been manifestly wrong, and an oppression of the citizen? Had we not better, said Mr. B., suffer a thousand insults, than trample on the personal liberty of the citizen? The liberty of the citizen was guarded by the express provisions of the constitution; and he would not, he said, exercise any authority restraining it, unless unsupported by the constitution. That was his guide; he had taken an oath to support it, and that instrument provided that no warrant shall issue, unless supported by oath. The warrant against John Anderson had, therefore, issued in contradiction to the constitution. The proper course would be to discharge him from the warrant which had been illegally issued; to investigate the subject; and, if it should be decided that he was amenable to the House, then to arrest him and punish him, but not, otherwise, to proceed further in the business.

Mr. TERRY said that, on this occasion, it appeared to him, to use a vulgar adage, gentlemen leapt before they came to the stile. With respect to the constitutional provision for the protection of individuals, if a warrant contrary to law was before a court of justice, where strict law prevails, the court would not *ex officio* quash it, if the party concerned submitted to it. It was proper, Mr. T. said, that Colonel Anderson should have the opportunity of objecting to it. If he did so, Mr. T. reserved to himself the right to decide whether the warrant had been issued constitutionally or not. In the present state of the proceedings, he said, the House ought not to decide: if conscious of his offence, the individual might not think it advisable to object to the authority of the House.

Mr. COMSTOCK, of New York, said he did not rise to detain the House, but to say that he thought, unless this or a similar resolution passed, (for appointing a committee,) the patience of the House would be put to a severer test than it had yet been, by the protraction of a debate arising from the want of a definite proposition before the House, which it would be the business of a committee to present. Many observations, it appeared to Mr. C., had escaped gentlemen in the course of the debate that had already taken place, which might have been offered with more propriety when this man should be brought before the House, and ex-

hibit the evidence, if he has any, to extenuate his guilt. It would then be more proper than it was now to comment on his character and on all the circumstances of the transaction. At present, Mr. C. said, he would forbear any remarks on that head; he thought that enough had been disclosed to justify what had been already done.

The resolution was finally agreed to, and Messrs. FORSYTH, HOPKINSON, TUCKER, SERGEANT, JOHNSON, of Kentucky, PITKIN, and TAYLOR, were appointed a committee accordingly.

John Anderson's Case.

Mr. FORSYTH, from the committee appointed to-day, made a report recommending that the House do come to the following resolution:

Resolved, That John Anderson be brought to the bar of the House, and interrogated by the Speaker, on written interrogatories, touching the charge of writing and delivering a letter to a member of the House, offering him a bribe, which, with his answers thereto, shall be entered on the minutes of the House. And that every question proposed by a member be reduced to writing, and a motion made that the same be put by the Speaker, and the question and answer shall be entered on the minutes of the House. That after such interrogatories are answered, if the House deem it necessary to make further inquiry on the subject, the same be conducted by a committee to be appointed for that purpose.

Mr. TUCKER read a resolution that the Speaker be authorized to inform the accused that that he might ask counsel, &c.

Which was superseded by an intimation from the Speaker, that he should consider it a duty, if no objection was made, to give the accused information on this head.

The Sergeant-at-Arms was then directed to bring his prisoner to the bar of the House.

On his appearance, the SPEAKER directed a chair to be given to him, and addressed him to this effect:

"John Anderson, you are no doubt aware that you are brought before this House in consequence of having written and delivered to a gentleman, who is a member and chairman of a committee of this House, a letter, of the contents of which you are apprised. Before I proceed to propound to you any interrogatories on this subject, I will apprise you that, if you have any request to make of the House; if you wish for counsel, for reasonable time, for witnesses, for any of those privileges belonging to persons in similar situations, the House is disposed to grant it. If you do not wish for time, for counsel, or for witnesses, the Speaker will proceed to put to you such interrogatories as may seem proper."

To this the prisoner at the bar replied in substance, although indistinctly, that, in his peculiar situation, he desired the assistance of counsel; he desired time until to-morrow, and the opportunity of summoning witnesses to testify to the character he had sustained through life.

Whereupon the Sergeant-at-Arms was directed to take the prisoner from the bar.

Some conversation took place as to the precise mode of proceeding, which resulted in drawing up a resolution that the Speaker be authorized to inform the accused that the House comply with his requests.

And then the Sergeant-at-Arms withdrew from the bar with his prisoner.

The House adjourned at a late hour.

FRIDAY, January 9.

Another member, to wit, from Rhode Island, JAMES B. MASON, appeared, produced his credentials, was qualified, and took his seat.

Case of John Anderson.

Mr. SPENCER offered for consideration the following preamble and resolutions:

The House of Representatives, entertaining great doubts of its possessing the competent power to punish John Anderson for his contempt of the House, and his outrage upon one of its members:

Resolved, That all further proceedings in this House against the said John Anderson do cease, and that he be discharged from the custody of the Sergeant-at-Arms.

Resolved, That the Attorney-General of the United States be directed to institute such proceedings against the said John Anderson for his said offence as may be agreeable to the laws of the United States and of the District of Columbia.

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for the punishment of any contempt of the Senate or House of Representatives of the United States, and of any breach of the privileges of either House.

Mr. SPENCER, of New York, observed, that in submitting the resolutions which had been read, his object was to procure a decision of the House on the abstract question of its right to proceed in the case of Colonel Anderson. He had offered them in this stage of the proceedings, because no opportunity had yet been given to take the sense of the House, and with a view also of preventing the influence of those feelings, which the demerits of the case might excite, in producing a decision that calm and deliberate reason might not sanction. It was more consistent, also, with the dignity of the House, that we should retrace its proceedings, if they were wrong, from our own impulse, rather than be compelled to do so on the motion of the accused or his counsel.

Mr. S. unequivocally condemned the conduct of the accused; and his indignation at the enormity of the offence had, he confessed, carried him too far, in endeavoring to punish it. The only apology I have to offer, said Mr. S., is to be found in that universal burst of feeling which spread through the House on the disclosure of the base transaction. But time for reflection has succeeded to the impetuosity of feeling; and, being perfectly convinced that we were wrong, I take the first opportunity to acknowl-

edge my error, and to expiate it, by submitting the resolutions on your table.

In deciding this question, we act as judges, and we must demand the very letter of the law to authorize our decision. With the propriety, or expediency, or necessity of having some law on the subject, we, as judges, have nothing to do. We act not as legislators, but in a judicial capacity, in a cause between us and the accused; and we are as strictly bound by the law of the land as any court of justice can be. Let us, then, search for that law. If it is to be found at all, it is either in the constitution, in the laws of the United States, or in the law of Parliament. The friends of the procedure have been in vain called upon to point out the express power given by the constitution. So far from doing so, they have not, as yet, answered the objections which the constitution itself interposes. The 4th article of the amendments provides, "that *no* warrant shall issue but upon probable cause, supported by *oath or affirmation*," and that it shall describe the person to be seized. In the present case, a warrant has been issued, directing a person to be seized, without being supported by oath or affirmation. But we have been told, that the clause is only intended to regulate courts of justice. There is no such limitation in the amendment; but, admit it, and what is gained? The issuing of process to bring in a party to answer is in itself a judicial act; all our proceedings in the case are founded upon the idea of our being a court for this purpose. By the 5th amendment it is provided that no person shall be held to answer for an infamous crime unless on indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in service. If any doubt should exist as to the universality of the prohibition, the excepted cases which it mentions shows conclusively that it was intended to apply to all others. Here there is no presentment, and no one will contend that it is one of the excepted cases. The same amendment provides that no person shall be compelled to be a witness against himself in a criminal case. We are about to propound interrogatories to this man; if he refuse to answer them, what are you next to do? Will you treat the refusal as another contempt, and punish him for it; and thus compel him to bear witness against himself? Or will you persist in making a vain effort at power, when you know you must retire discomfited and disgraced? The 6th amendment provides for the trial by jury. In no sense of the word can this House be deemed a jury; we are not returned by an Executive officer; we possess not the qualifications of jurors, and the right of challenge of course could not be allowed.

From this examination, it results, then, that if we proceed against this man for a crime, as some have contended, our measures are wholly unconstitutional, illegal, and void. If we proceed against him at all, it must be for a contempt amounting to a breach of the privileges of the House. The most diligent research has not enabled me to discover either the word or the idea of a contempt as applied to Congress, in either the constitution or laws of the United States, and I venture to affirm that neither of them is to be found there.

Mr. ANDERSON, of Kentucky, declared that he should support the resolutions offered to the House. His only objection was to the expression of doubt contained in the preamble; he felt no doubt, and thought the prisoner should be instantly discharged. It might indeed produce some mortification for the House now to retrace its steps, and to make a public acknowledgment of its imbecility, but he thought this course much preferable to an assumption of the constitutional powers now contended for. He himself participated in the mortification, but felt the necessity of giving the most prompt correction to the error which had been committed in issuing the warrant. It was much better now to arrest the proceedings, than to conduct the case through an examination, and be compelled to adopt that course; an idea then might justifiably arise, that the discharge was produced by a belief that the man was innocent, or that the case did not merit punishment. It should be placed on its true ground; the prisoner should be immediately discharged from a want of power in this House to punish. If this power be possessed, it is indeed most novel and extraordinary. In every other case, an act which is punishable, must, by a previous law, have been declared an offence. In this, the guilt of the individual does not rest on any statute previously passed and promulgated, but on the feelings and passions of this House. In vain do we demand the law, which has declared the act an offence at the time of its commission. In vain may the citizen look for the rule of his conduct in the statute book of his country. There is no law declaring the act we are about to punish, a contempt or an offence of any kind; our opinion of its criminality has been locked within our own breasts, and never can be constitutionally declared except by a law of Congress. No other tribunal has ever yet dared to assume such a power, and if it be exercised, no citizen in this country can be safe. But if the doctrine is recognized that we can declare an act after it is committed an offence, according to our views of the privileges of the House, or the nature of contempts, we are at once plunged into a sea of perplexity. There is no subject on which the varying minds of men can differ more. That act which one will declare the grossest contempt, will, by another, be thought perfectly harmless. We shall have no previous standard by which we can measure the act; the fact of its being an offence will depend on the wide and differing views of members of this House. If we reserve to ourselves the power of declaring every paragraph in the newspapers defamatory or libellous, as our feelings may direct, and which no law has forbidden, we are indeed possessed of powers of which the people

of this country have little thought, and which, by reading the constitution, they can never find.

If, however, it should be conceded that this was an offence, unless there has been a punishment previously affixed by law, we are still powerless, and must arrest these proceedings. By what authority can we award any punishment, or imprisonment, in preference to any other? There is none in the constitution, and there is no law on the subject. What necessary connection is there between contempt and imprisonment? They seem to be spoken of as if one was a necessary consequence of the other. It arises, Mr. Speaker, from the provisions of the common law, and the usages of the British Parliament, which are fastened about our recollections, and are difficult to be shaken off. We forget that the powers of the House of Commons depend on precedents formed by their own decisions, and ours only on special grants in the constitution. This House alone cannot create a punishment which has not been affixed by law; by both branches of the legislature. An apt illustration of the idea is found in the provisions of the constitution, which define treason, and empower Congress to prescribe the punishment. If this power had never been exercised, and no statute had been enacted to declare the punishment, no court in this country could have created one. No judge would have dared to pass a sentence of death, or imprison for a day. The vilest traitor that ever lived, can be punished only according to law in this land. The same observations apply to piracy, and felonies, committed on the high seas. Until Congress shall exercise the powers given by the constitution, and define the crimes and declare the punishment, no tribunal in this country can supply the defect, and dare to punish according to the common law, or in any other way. If we can impose a penalty, which has not been assigned to a specific crime, there is then no boundary to our powers. When we determine that this House possess the power of punishment, then the species or degree is only matter of selection. Who can prescribe the limit? We have no standard to regulate or bind our power, but our own feeling. We can range through every gradation of punishment, from a simple reprimand to death. And when the principle of punishment is decided, we may tomorrow be boldly debating whether we shall reprimand, imprison, brand, or gibbet this man. If this resolution be rejected, we shall, in effect, decide that the House of Representatives possess the power not only of declaring any act an offence, but of selecting and inflicting a punishment heretofore unknown to the laws, and even to ourselves. These are indeed tremendous powers, and such as I believe have never been granted.

Mr. FORSYTH, of Georgia, said, it is admitted that we have power to suppress disorder in the gallery, to remove the offender from the hall. Is not this removal of a citizen of the United States, of a freeman, from your gallery, in which, while it continues open, he has as much right to sit there as we have to sit here, a punishment for a crime or contempt which he has committed? Is it not, if not justified by law, an assault, and false imprisonment, for which the officer acting under your orders is answerable, by suit and by indictment? Whence arises the power? Will gentlemen point to the clause of the constitution which confers it? Here then is a case in which, from the necessity of the case, no gentleman will venture to deny the existence of the authority to punish, and the propriety of its exercise. But does it stop here? Are we permitted to remove the nuisance only beyond the walls of this room. Extends it no farther? Cannot our deliberations be interrupted at the door, and on the staircase? The same reasoning will apply to all portions of the House and to the street. Does it stop here? Will you permit the beating of drums and the firing of cannon under your windows, in the street, in front of this hall? Can we not remove such nuisances, and prevent their recurrence, by the punishment of those who caused them, for their contempt to this body? Certainly no one can deny it. We have, therefore, by admission, the power within and without these walls. Where is the limit, Mr. F. said? It was limited only by the jurisdiction of the United States, because to the extent of the jurisdiction was the necessity of the legitimate exercise of the power.

Mr. F. did not conceive those clauses of the constitution, quoted by the gentleman from New York, applicable to the present case. The person in custody is charged with a contempt, punished summarily in all cases—not for an offence indictable and punishable by the ordinary course of judicial proceedings. Every gentleman, whether of the profession of the law or not, will know the distinction, and that these clauses of the constitution were framed without any view to the exercise of this power to punish contempts, and without any intention to prevent its exercise.

But we are told, that this miserable man is called here to answer to some unknown law. He was somewhat at loss to understand the force of the remark; if it was meant to convey the idea, that there is no law of Congress defining the bribery of a member of Congress as a crime, and affixing an appropriate punishment, it was true. But if it meant, what it can only mean, if used with an application to this case, that we propose to make an action, in itself innocent, criminal, and punishable, Mr. T. said, he must express his astonishment at the declaration. Ignorant indeed must be that man, who does not know that this action was not criminal in the highest degree. Every man carries in his own bosom a faithful monitor, instructing him how enormous is such an offence. He has committed an offence against a law known to him and to all mankind, for which, Mr. F. trusted, he would be punished as far as the power of the House would permit.

Mr. F. said, the gentleman from New York acknowledged the force of percedents in judicial proceedings; there they are highly useful landmarks, not to be departed from without danger; but in legislative proceedings they are dangerous things. Mr. F. could not perceive the propriety of the distinction. A precedent in one place is omnipotent; in another a succession of precedents are to be disregarded. The judgments pronounced in similar cases, by the House of Representatives, were assailed, on the ground that they were established under the influence of passion. The gentleman, Mr. F. apprehended, had not examined the history of the cases to which he referred; he would find that they were established on due deliberation. If he would compare the conduct of this House, and that of the House of Representatives in '96, in the case of Randall and Whitney, he would find that sufficient cooling time had been furnished the House of Representatives before the commission of the fact. This House, yesterday, under the influence of violent indignation, adopted unanimously the proposition to arrest the offender. To-day we are cool enough to examine with critical accuracy and scrutinizing care, into the extent of our constitutional authority to protect ourselves from the approaches of corruption, or the assaults of violence, while in the performance of our public duties. In the case of Randall, the offender was brought day after day before the House; he had counsel who defended his cause, and urged all the suggestions in his favor which his case would justify. He was, by a majority of four to one, deliberately condemned and deliberately punished, by a confinement of three weeks, for the contempt he had committed.

Mr. BARBOUR, of Virginia, said, that he was induced to ask the indulgence of the House whilst he submitted his view of this subject, not only because there was a great constitutional question involved, but because he had acquiesced in the issue of the warrant, upon which he was now decidedly of opinion that the House ought no further to proceed.

We are called upon, said he, to decide this question: whether the House of Representatives have the power to punish the person at its bar, for an attempt to bribe the chairman of one of its committees. After the most mature deliberation which he had been able to bestow upon the subject, he said he was satisfied that the House had not that power; that he would endeavor to state, as succinctly as he could, the reasons upon which that opinion was founded.

The attempt imputed to the person at the bar of the House, and about which there was no doubt, in point of fact, seemed to him to present itself in these two points of view: First, as a crime, to be punished because of its own enormity; secondly, as a breach of the privileges of a member of this House. As to the first proposition there could be but one opinion. The act complained of is one of the most abhorrent kind; but the word *crime, ex vi termini*, imported a violation of some law, either in the omission of some act enjoined by it, or in the commission of some act forbidden by it. That law must have been enacted by the legislative power—that is, by the consent of the two Houses of Congress. Now, as it was conceded on all hands that no such law had passed, as it was clear that no such law could now pass, so as by an *ex post facto* operation to relate back, and embrace this case; as, too, the execution of a law, by the infliction of punishment, belonged to judicial cognizance, the conclusion followed, too clearly to require further comment, that the act committed, or attempted to be committed, could not be punished by this House as a crime within itself. He spoke not here of the common law, which punishes crimes against the laws of morality—that law did not exist in relation to the United States; and if it did, this was not the tribunal to enforce it. We come now, said Mr. B., to the great question in this case, it is this: Was the attempt complained of a breach of the privileges of a member of this House? He said he would attempt to show that it was not.

If, indeed, this question was to be decided by the *Lex Parliamentaria* of Great Britain, he would not undertake to say what might be the decision; but, said he, we have a much better and surer guide—we have the Constitution of the United States to point out the course which we ought to pursue. It was that instrument, he said, which called into existence every department of the Federal Government, and which created this House as a branch of one of those departments; it was that which marked out the powers of the Legislature as a whole, and the powers of this House as a constituent part, as well as the privileges of its members.

By reference to the constitution, it would be found that the matter of privilege was not left to construction. The framers of that instrument were deeply versed in the nature and history of Parliamentary privileges. They knew that, though they were undefined, because they had been said to be undefinable, they were marked with one strong characteristic feature—that they had perpetually advanced, that they had never retrograded. They, therefore, in the sixth section of the first article of the constitution, had accurately defined the privileges of members; they made them to consist, first, in a qualified exemption "from arrest during their attendance at the session of their respective Houses, and in going to, and returning from, the same;" and, secondly, "that for any speech or debate in either House, they shall not be questioned in any other place." Here, then, was the extent of our privileges.

He thought that, according to this universal principle of construction, that the mention of one thing was the exclusion of another, it was obvious that the constitution had intended to restrain privilege, and tie it down to the particular cases stated in the section which he had just cited. But to put this subject in a point of view, if possible, still stronger, he begged leave to refer the House to the third section of

Jefferson's Manual, in which will be found an enumeration of the privileges claimed by the British Parliament. That enumeration embraced, besides many others, the two cases mentioned in the constitution. Hence it must be most obvious, that the constitution did not intend to adopt the Parliamentary law upon the subject of privilege; because, as that covered a much larger ground, if it had been intended to have given the whole, it is difficult, if not impossible, to assign a reason why it should have been thought necessary, by special enumeration, to have given a part.

There was no man in the House, he said, who could hold the attempt which had been made in greater abhorrence than himself; but whilst he considered it a daring attempt at wickedness, an outrageous insult to the feelings of the member, and as calculated to excite the detestation of all good men, yet it was not, as he thought he had proven, a breach of privilege. If it were not, then there could be no principle on which the House could pretend to take cognizance of it. There were many insults which might be offered to the members of this House, for which they had no remedy but those which were open to every other citizen. And, indeed, he referred the House to the same section of the parliamentary manual, to which he had before called their attention, to show, that, in a case of acknowledged breach of privilege, as, for example, the arrest of a member, the effect of such unauthorized arrest is, that the member is entitled to be discharged, and the persons concerned in the arrest, are liable to action or indictment for their injurious violation of the member's privilege; but he did not believe that even in that case, the House could inflict any punishment on the persons concerned for a contempt itself. But gentlemen had taken another ground in debating this subject; they had said that the mere creation of a legislative body, *ipso facto*, imparted to that body certain rights, and, amongst others, the right of self-defence; that as they had the power, so it was their duty to keep themselves pure; and for that purpose, to punish any attempt upon the integrity of its members. This reasoning, said Mr. B., is too broad. Congress is the creature of the constitution; it has, therefore, as he had observed in a former part of his argument, just those powers, and those only, which the constitution had given it; and whatever powers are not given, we must be content to think were not thought necessary. To Congress, composed of the two Houses, it had given the legislative power which it granted. But this was clearly no act of legislation; first, because it was a proceeding proposed to be carried on by one branch of Congress; and, secondly, because it did not propose to provide a punishment for future cases, but to inflict it upon one which had already occurred. But, besides the legislative power granted to Congress, as composed of the two Houses, there were certain powers granted to each of the Houses respectively. Let us then see what are given to the House of Representatives. They are all to be found in the second and fifth sections of the first article. He said there was no power given the House affirmatively to inflict punishment upon persons not members for any offence either against the House or its members. Was it to be inferred from the powers which were given? So far from it, he said, that he thought the inference deducible from the nature of the powers given almost irresistible, that such power was not intended. The great argument had been that the creation of the Legislature imparted to it certain inherent powers as a part of its nature and existence. Now, sir, said he, let me ask, what power could be more inherent, in a legislative body, than that of appointing their own Speaker? And yet this power is expressly given. What could be more inherent than the power to determine their own rules of proceeding? And yet this was expressly given. What could be more inherent than the right of punishing one of its own members for disorderly behavior? And yet this was expressly given. He asked whether the giving powers like these, which, if there be any such thing as inherent powers, would have been so considered, did not incontestably prove that the constitution meant not to leave this subject to doubtful construction, but, on the contrary, to give to the whole of the legislative body which it created, as well as to its several parts, the laws of its and their existence, and to impart to them, by grant, the powers necessary to the performance of their several functions. Sir, the framers of the constitution meant to guard as carefully against the latitudinous construction which might be given to indefinite powers, as they did against indefinite privileges; they therefore determined to bring down both power and privilege to a constitutional standard, so that they might be easily measured. It would have been a vain thing to have circumscribed Congress in its legislative power, if the two Houses which compose it had been left, like the British Parliament, to range at large, in the wide field of inherent powers, and indefinite privileges. If, said Mr. B., the House had power to take cognizance of this case, and to punish it, where would they stop? This insult or this attempt upon one of the members was committed, not in this House, but in the District of Columbia. Suppose it had been committed in an extreme part of the United States, would our jurisdiction have reached the offender there, and should our Sergeant-at-Arms have been sent to arrest him? The consequences to which this doctrine would lead, seemed to him to show that it could not be sustained. Nor, said he, is there so much danger to be apprehended from the contrary doctrine, as gentlemen seem to suppose; he thanked God the attempts which had been made were but few, and in each instance had failed; if they should hereafter be repeated, he hoped and believed there was a long, very long, tract of future time between us and that

period when they should prevail; if any attempt of this kind fail, the man who makes it is foiled in his wicked effort, and covered with disgrace; if unhappily it should ever succeed, we have a constitutional remedy at hand: by expulsion, we may drive from us the unworthy member, and, having cut off the gangrenous limb, the rest of the political body will be restored to health. True, sir, the expulsion of a member requires the concurrence of two-thirds; but does any gentleman doubt for a moment, but that if the acceptance of a bribe were proven, two-thirds, aye, three-thirds, would instantly unite in a vote for the expulsion of him who should have accepted?

Mr. TUCKER, of Virginia, said there was one thing, at least, in which he would most heartily concur with the gentleman from New York, who had offered these resolutions to the House; that, the exercise of the power of committing for a contempt of this body, was of so embarrassing a character; and was, in some respects, so little consonant with the general principles to which we yield our assent, that it was desirable another mode should be adopted of punishing offences of so deep a dye, without bringing the offender for his trial and punishment before the body whose privileges had been infringed, and whose dignity had been insulted. It was for this reason, that, on a former day, he had intimated an intention of submitting to the consideration of the House a resolution similar to one of those now under consideration, directing a bill to be reported for the punishment of the offence of bribing, or attempting to corrupt a member of Congress. It was for this reason also, that, however heinous the offence of the party whose case was now before the House, he was, on the present occasion, disposed to manifest towards him the greatest moderation and forbearance. He was so averse to the exercise of a power to punish, where the offence and the punishment are so undefined, and where the tribunal which judges cannot fail to be animated with indignation against the offender, that he was inclined, on the present occasion, to dismiss the party, after the offence had been inquired into, without farther punishment than the reprimand of the Speaker; and to provide for any future case by the enaction of a law imposing penalties adequate to the offence.

But, while he was disposed to this course, he could not assent to the proposition of the gentleman from New York, which disavows any authority in this House to punish the offence, as a contempt. It appeared to him essential that this power should exist in the House of Representatives, though it might be wise in them to relieve themselves for the future from the embarrassment of exercising the privilege themselves, by providing for its punishment by law. While he could not doubt of the constitutional powers of the House on this occasion, he would ask gentlemen what would be our situation, if we were without such powers? What would be the effect of promulgating to the world that the House of Representatives was, at all times, to be approached with impunity by the vilest corruption? That bribes might be offered, without hazard, by the most infamous of mankind, and that the constitution had left this body without the means of preserving pure the fountains of legislation, and of protecting itself from so vile a contamination! He should hesitate much before he should adopt a proposition which might lead to such dangerous results; and he should be diligent in examining the principles of the constitution before he could give his assent to a doctrine which would sap the purity of this body, for the preservation of which that constitution was so solicitous.

Nor was he disposed to coincide in the opinion of the gentleman from Virginia, (Mr. BARBOUR,) that, as it is at least doubtful whether we possess the power asserted, we should decline the exercise of it. He was not satisfied that there was a reasonable doubt of our powers. Ingenuity may throw obscurity and difficulty around every proposition. Nor did he perceive what part of the constitution prescribed to us as a rule, to reject the exercise of every power where doubt could be thrown around it. On the contrary, in taking the solemn oath to support the constitution, to which another gentleman had so emphatically alluded, he felt himself equally bound to preserve to the Federal Government, and to this body, their just powers, as to guard against encroachment on the rights of the State, or an extension of the powers of the Union. It was equally the duty of every member of this body to prevent the most vigorous and useful branches from being lopped off, as to array himself in opposition to every assertion of unconstitutional powers. Upon all occasions of this kind, however doubtful and embarrassed might be the question, it was the solemn duty of every member to examine it according to the best lights which Heaven has given him, and to pronounce fearlessly the result. It was this course he should endeavor to pursue in presenting a very few remarks on the constitutional powers of this House.

There were, he observed, two kinds of powers granted by this constitution: enumerated powers, and incidental or accessory powers; the first expressly specified in the constitution, the latter falling under the general grant of all "necessary and proper powers;" which terminates the enumeration of the powers conferred on the General Government. The latter, indeed, would have existed independent of that clause, since, according to the principles of common reason, when a power is given to do an act, a power of employing the means necessary to its execution is also given, by implication.

While, therefore, it is readily admitted, in relation to these two classes of powers, that the power now asserted is not expressly given, it is confidently alleged to be fairly incidental to the power of legislation; and it will be contended —That the power to punish bribery of a mem

ber of this House, is vested somewhere in the Federal Government; and, that this power of punishing belongs to the House of Representatives, independent of the other branches of Government.

That a legislative body should exist without any power to punish the offence of bribing its members, is a proposition which seems too monstrous to be alleged. Hence it is that gentlemen seem disposed to acknowledge a power in the Legislature to pass a law which shall prescribe a punishment for the offence, though they deny the power of this House to proceed to consider and treat it as a contempt. And where, let me ask, can gentlemen who are so technically accurate in the construction of the constitution, discover that clause of the instrument which expressly grants the power to enact such a law? There is none. The boundaries of the constitution cannot be laid down with mathematical precision, by the square and compass. They must be ascertained by the principles of sound reason and common sense, and by the exercise of a just discretion. While, therefore, we cannot discover the power even to legislate on this subject, in the express provision of the instrument, it is doubtless fairly incidental to the power of legislation. It is inconceivable that the convention which framed the constitution should have intended the creation of a legislative body, which should be without the power of self-protection; without the right to assume to itself freedom from disturbance; without the means of securing order in its deliberations; and without the privilege of preserving itself entirely free from the influence of fear, or the corruptions of gold. Some of these incidents to legislation, gentlemen have been compelled to admit. In what a situation should we be, if our deliberations were to be affected by the hisses or the applause of the gallery; if an obnoxious member were to be put down by the threats or tumult of the audience, and a favorite speaker cheered on a favorite subject by shouts of approbation? Can gentlemen deny that we have power to prevent these things? The gentleman from Virginia appears to confine us, even under these circumstances, to the remedy of excluding those who are riotous. Within the walls alone have we power to act, and then only power to exclude —not to punish. Suppose, then, the rioter returns, or betakes himself to the street, and throws stones at your windows. He is without your doors. Have you no power over him? Have you not accessarily even those powers which every court of justice possesses, without the express provisions of law? If you have not, the situation of this body is deplorable indeed. If you have, where will you draw the line of distinction? What is more important, even in the order and decorum of the House, than the preserving the mind of every member free from the suggestions of fear—the seductions of profit —the grovelling desire of gain—the influence of corruption? What shall we say if an attempt be made to control, by threats or by a challenge, the free and deliberate exercise of his judgment, by the representative of the people? Though the challenge be given without the walls, is not its effect to be felt within; and is it not this (and not the place where the act is done) which must be considered as determining the powers of Congress? The principle on which it can interfere in any case, is the right to prevent its deliberations from being disturbed; and whether this disturbance be produced by an act in the gallery, in the street, in the highway, or in the closet, the body must equally have the power to secure to itself the exercise of free will in the discharge of its legislative functions. And if these principles be correct—if they justify a right to punish occasional disorder, how much more important the privilege of preventing the inroads of corruption, at the same time so insidious and so fatal?

Mr. Mercer rose immediately after Mr. Tucker, and addressed the House in substance as follows:

The resolutions on your table, Mr. Speaker, involve the decision of three distinct propositions. Has this House the power to punish contempt? Is the act charged upon the prisoner a contempt? Have the proceedings of the House been such as to warrant his further prosecution?

Does this house derive from the constitution the power of punishing a contempt? My honorable colleague, who just preceded me, in a spirit of accommodation, I have no doubt, has proposed to introduce a bill to punish by law an attempt to bribe a member of Congress. If the power of punishing such an act is comprehended among the privileges of this House, the wisdom of any such law may well be questioned. Were the contemplated law restricted to a description of that particular species of contempt to which our consideration is now turned, it would not lead to the inference that this House recognized no other. And if, to obviate this difficulty, a complete enumeration were attempted of every possible insult to the privileges, rights, and dignity of this House, the proposed law would be swelled to the size of the largest volume on your table. It may also be doubted whether a right which this House does not derive from the constitution can be created or protected by an act of ordinary legislation. Those gentlemen who are desirous for a law to define the privileges of this House, and to provide for punishing the contempt of them, admit their existence, as well as the power of this House to punish their violation, by the mode of reasoning which they have adopted.

Before I inquire into the origin of this power, allow me to disavow every feeling which could militate against the most deliberate and impartial exercise of my judgment. I cannot but deplore the unhappy situation of the prisoner, whose head is bleached by the snows of many winters, and who, if really guilty of the atrocious act imputed to him, is an object of still greater commiseration, as his turpitude is

without the extenuation of youth or inexperience.

Sir, said Mr. M., I never beheld a criminal arraigned at the bar of justice without this feeling, nor have I found it difficult to obey the legal injunction to believe the innocence of the accused until he has been heard in his defence and judicially convicted. This maxim of Christian charity it comprehended in that admirable system of practical wisdom which has been repeatedly referred to in this discussion; a system matured by the experience of ages, adopted by the universal assent of the people of the United States, and denominated the common law.

It is to this system that I resort for the authority of this House to punish a contempt; to define the act to be punished; to determine the mode of proceeding against the accused; and, if guilty, to ascertain the quality, and measure the extent of his punishment.

And I do so, not because the common law confers these powers on this House, but because it defines that written constitution from which we derive them.

Sir, there is not an entire article, not a solitary section, scarcely a line of that instrument, which can be correctly understood or practically enforced, without a recurrence to this law.

If you desire to know the import of an English word, you turn to the lexicographer of England; for a phrase of statutory law you consult the statute which contains it, and the precedents by which it has been expounded. The terms of the common law must be also defined by a recurrence to the law itself, comprised in the treatises and illustrated by the history of the nation from whom we derive it.

The constitution not only uses the terms and phrases of this law, but expressly recognizes its existence. The seventh article of the amendments provides, that "in suits at common law, when the value of the controversy shall exceed twenty dollars, the right of trial by jury shall be preserved: and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law;" of that law which gentlemen have asserted to have no existence under this Government, and against which the honorable member from New York would inspire us with apprehension and alarm.

I appeal to my colleagues, if this constitution had been formed contemporaneously with that of Virginia, would not the same power to punish contempts attach to the House of Representatives and Senate of the United States, as unquestionably belongs to the corresponding branches of the General Assembly, the House of Delegates and Senate of Virginia? From the form of the Speaker's chair to the power of expelling a member, the character and authority of the House of Delegates is derived, without any express constitutional provision, from the House of Commons, the archetype of the popular branch of every State Legislature, as it is of this House.

The force of the argument which this analogy furnishes, is not impaired by the consideration that the Federal Constitution is of more recent structure. It is the act of the people of the United States, as itself proclaims; and, referring expressly to the common law, in one of its articles, unintelligible throughout, except by the aid of that law, we have a right to resort to its maxims in the present inquiry. If this power is essential to the House of Commons, so it must be presumed that the people of these States regarded it to be, and so must we consider it in relation to the two Houses of this Legislature.

It has been urged that many extravagant doctrines would arise from this source of constructive authority. Where, it is asked, shall this House stop in its use? The Revolution of 1776 answers this question. It necessarily lopped off the regal and aristocratical branches of this law. This limitation of the common law relieves the rule of construction, for which I contend, from all that could alarm our fears. It is founded, I am inclined to believe, in judicial decisions throughout the United States. By the unanimous judgment of the General Court, the highest criminal tribunal of Virginia, the principle has been extended so far as to authorize a defendant, indicted for a libel at common law, to give the truth in evidence. This House derives, therefore, from the common law, no privileges which it ought not to possess.

One of my colleagues has contended that all the privileges of this House are expressly enumerated by the sixth section of the first article of the constitution, and restricted to exemption from arrest, in certain specified cases; and from responsibility elsewhere for any speech or debate in the House. And hence, with great apparent plausibility, he infers that the House possesses no other privilege, and has authority to punish no other contempts, except such as are committed in violation of these. I answer to this argument, it has already been contended by the honorable member who last addressed the House, that this clause of the constitution may be justly regarded as the result of that extreme caution which induced the convention to insert in it what might otherwise have been inferred; a caution which is discernible in other parts of this instrument. To the illustration which he has furnished, many others may be added; as, for example, the very first article of the amendments. The greater part of these are designed to serve the purpose of a bill of rights, for which so many opponents of the constitution had most zealously contended. It cannot be presumed that if this amendment had not been made a part of the constitution, Congress would have prohibited the free exercise of religion, have abridged the freedom of speech, or obstructed the right of the people peaceably to assemble and to petition for a redress of grievances. I am, however, led involuntarily to another explanation of the expediency of expressly incor-

porating in the constitution the two privileges to which my colleague has referred; an explanation, which is in strict harmony with all the views that I have taken of the general power of this House to punish contempts of its privileges. Every other privilege of this House, except those which are enumerated, will be found to be consistent with the obvious and equal rights of the people. The enumerated privileges are limitations of those rights, and, but for the express grant of them by the people, it might have been doubted whether the character of our republican institutions did not forbid their exercise. In fine these enumerated privileges protect the members of this House, against the common and dearest rights of the citizen—the rights of property and reputation. The privileges for which I contend would protect the House from their injuries, from fraud, violence, and injustice.

Mr. Robertson supported the resolutions.

Mr. Ervin, of South Carolina, next rose, and said,

I beg leave now, sir, to call your attention to what I conceive to be the privileges of the House, and the powers of the House to punish for a breach of those privileges. The first great power which it possesses is an inherent power of self-defence, analogous to the fundamental natural right which every man possesses of defending himself. It is in both cases merely defensive. The natural right results from man's relative situation in this state of existence. The duties which he owes to his God, his neighbor, and himself, beget, rather let me say, impose on him this power; nay, the obligation of self-defence is necessary to a complete discharge of those great duties. In like manner, every article in your constitution which confides a trust or imposes an obligation to perform for the good of the people acts of legislation, creates and gives this power to enable you to perform those acts, and discharge, with due faith, the high trust which has been confided to you; and as, in the exercise of the natural right, a man is justified to make use of any force necessary to repel a personal injury, so, likewise, in the exercise of your inherent power, this House is justified to prevent or remove any annoyance within or without the walls of this House, which would tend to disturb its deliberations, or prevent it from the due performance of any of its duties. But, sir, you would not in either case be justified to make use of any force or restraint by way of punishment; for, in the case of the natural right, the use of any force, other than that which is necessary to overcome the offending force, would constitute an act of aggression. So, the exercise of force by the House, in the way of punishment, would not be justified by the inherent power, it being merely defensive. The exemption from arrest, and the privilege of not being questioned in any other place for any speech or debate in either House, constitute more of your privileges; for, although they tend to promote the immediate benefit of members in their individual capacity, they are yet the privileges of the House; and the House can, in both cases, punish any member who should waive his privilege without their consent.

These, sir, are, in my estimation, the legitimate and constitutional privileges of Congress; and yet, sir, for the want of legal provision, they may with impunity be trampled on and set at defiance, not only by the defendant at your bar, but by any man in this great community. Is it correct, sir, to say that this inherent right extends beyond the limits which I have assigned it? That, by virtue of our election, we are politically amalgamated, and that the reception of an insult on the shores of the Atlantic would tremble along the sympathetic line, and agonize your feelings beyond the mountains? No, sir; I contend that out of the boundaries of this District we have no protection, no privilege, except those granted by the first article of the sixth section of the constitution, other than the protection of other great and good men—that of virtue, and the privilege of convicting falsehood with truth, and confounding guilt by innocence. Mr. Speaker, behold the delicacy of our situation! A man arraigned at your bar for a most atrocious insult, and yet we have not the power to punish him. Although armed with plenary sovereignty, and the exclusive powers of legislation in all cases whatever in this District; although invested with authority to make all laws which may be necessary and proper to carry into execution all our powers, and to punish the breach of any of our privileges, yet we suffer these powers to slumber in criminal repose. As we pass along the streets, scorn may point the finger of contempt at us, defamations may teem from the press, arraigning the correctness of our conduct, and impeaching the purity of our intentions; nay, impudence and insolence may beard us at the very threshold of the great council of the nation, and without the provisions of law we cannot punish. Much has been said, sir, about State Legislatures, the judges of the United States, and State judges, possessing the power of punishing for contempt. I can speak with confidence in relation to this power in the State which I have the honor of representing. There, the Legislature, the judges, and even the justices of the peace, possess this power, not by arbitrary assumption, but by the provisions of the constitution and the principles of the common law, made of force in that State by an act of the colonial government, and which act is recognized and continued in force by a provision in the constitution of that State. In relation to the judges of the courts of the United States, we all know that they derive their power from an act of Congress which recognizes the principles of the common law. And I think, upon inquiry, it will be ascertained that the Legislatures and judges of the several States possess this power by some provision in their laws or constitutions. Numerous precedents have been appealed to. I shall not suffer my

mind, sir, to be governed, nay, influenced, by any precedents which, in my judgment, sanction error. It is, moreover, contended that, admitting there is no express provision in the constitution which gives, without the aid of legislation, a power to punish in case of a breach of privilege, yet that this House, on account of the difficulty of annexing a punishment adequate to every breach of privilege, does possess a discretionary power *ex necessitate rei*. Mr. Speaker, it is no compliment to say that I would as lief trust this dangerous power in the possession of this honorable body as in any other known to our institutions; for in every case in which corruption has dared to approach you with its impurity, or raise its detestable glance to the elevation of your virtues, you have uniformly repelled it with indignant contempt. But, sir, I am unwilling to trust this power with any man or body of men. The time may come when our political virtue may have passed away; when corruption may have sapped the foundation of our boasted institutions; when the independence of this House may be lost, and seen bowing, with sycophantic smiles, at the shrine of Executive favor; nay, sir, when the very exertion of the physical force of the people will but operate to their own destruction. It is on these accounts that I wish all our proceedings may be sanctioned by law and constitution. I feel a desire that gentlemen who advocate this power would pause a moment, and analyze its character. It is plenary sovereignty, armed with powers, legislative, judicial, and executive. It is a power capable of passing laws *ex post facto;* of declaring that act criminal, *ex re nata*, which before was innocent. It is a power unknown and undefined, which lies dormant until, in a moment of angry feeling, it proclaims its laws, which are carried into execution by infuriated justice. Odious tyranny! Most frightful despotism! More terrible than the laws of Caligula, or the rescript of the Roman Emperors.

SATURDAY, January 10.

John Anderson's Case.

The SPEAKER laid before the House the following letter and enclosure, yesterday received by him from John Anderson:

JANUARY 9, 1818.

SIR: Unwilling to be deprived, by any circumstances whatever, of an opportunity to explain to the honorable House of Representatives the motives which have actuated my recent conduct, I beg leave to announce my wish to waive, with that object, any constitutional or other question which may have arisen.

I enclose a letter which I had the honor this morning to prepare for the consideration of the House.

I am, sir, with profound respect,

JOHN ANDERSON.

HON. HENRY CLAY,
Speaker of the House of Reps.

WASHINGTON, *Jan.* 9, 1818.

SIR: Considering the honorable body before whose bar I am shortly to appear as the guardian of those rights which, as a citizen, I possess, and relying upon the generous feelings of its members, I have been induced to forego the privilege extended to me of employing counsel, lest it might be supposed that I was inclined to shelter myself by legal exceptions. As the novelty of my situation may, however, tend to surround me with embarrassment, it is my wish, should the rule of proceeding adopted by the House not oppose the course, that such questions as I have reduced to writing, be propounded to the respective witnesses by the Clerk, and that he should read the explanation and apology which I have to make.

JOHN ANDERSON.

HON. HENRY CLAY,
Speaker of the House of Reps.

The letter having been read—

Mr. FORSYTH rose to move that these resolutions be laid on the table. We owe it, said Mr. F., to our own dignity, to the dignity of the members of this House, that the investigation of the offence of John Anderson should proceed. The inquiry which has arisen into the extent of the privileges and powers of the House may be resumed afterwards, and decided. But let us see, said he, what will be the consequence of our proceeding in the present course, and being diverted by this inquiry from the examination of the accused. A person offers a bribe to a member of this House, the House orders the offender into custody—the letter of the accused, which is the foundation and the evidence of the charge, refers to certain officers of the Government, and members of this House, as prepared to support the claims to which he alludes. Instead of calling this person before us, and seeing how far we can substantiate the charge, the proceeding is stopped, by the resolutions before us, and the protracted debate which follows. May not this course, said Mr. F., put a strange construction on the matter? Malicious persons may say, and there are many such, it is the intention of the House to stifle a dangerous inquiry, not to settle an important constitutional question. To avoid any possibility of such an imputation, let us, said Mr. F., suspend the consideration of these resolutions, and proceed in the examination of the accused.

Mr. PITKIN observed, that the object of the resolutions was, to turn the accused over to the Executive officers; if they pass, the United States Attorney would be directed to prosecute him. But why not, before this, said Mr. P., bring the accused before us, and hear his explanation on the subject? An additional reason for this course, Mr. P. thought, was the request of the accused to come before the House. After examining and hearing him, Mr. P. said, the House could decide whether they ought to pass the resolutions, and turn him over to another tribunal.

Mr. SPENCER said, the remarks of Mr. PITKIN applied only to the second resolution, and not to the first; and he hoped the motion would not be agreed to. He did not, he said, possess such a feeling of dignity as to do, or persevere in any thing which he thought improper; and

in the conscientious discharge of his duty he should never look beyond the walls of the House for his motives. In this case, however, said he, malice itself could not impeach the motives of the House; for a proposition to direct the officers of the United States to proceed against the accused, could not, by any ingenuity, be construed into a disposition to stifle the inquiry. He therefore hoped the House would proceed and determine the abstract principle, without any reference to the merits of the case, and without considering whether John Anderson can make an acceptable apology or not.

Mr. HARRISON was in favor of laying the resolutions on the table, and proceeding immediately to the examination of the accused. It was not to be supposed that, because he was one of those referred to by John Anderson, as willing to support his claims, that he felt the slightest wish to avoid an examination of that individual. Mr. H. said, so far from disclaiming a readiness to support the claims of which Anderson is the agent, he felt bound in the strongest manner to aid them. Independently of a conviction of their justice, Mr. H. said, those claims came from a people and a Territory for which he felt a peculiar interest. He was therefore unconscious of any appearance of impropriety in being included among those whom the accused named as disposed to aid in his suit before the House.

Mr. FORSYTH replied to Mr. SPENCER, that all must know the extent of human malignity. Every one acquainted with our political history must, he said, be sensible how far the motives and the conduct of this House may be questioned and misrepresented; and he knew that the ingenuity of malice was such that it could, and probably would, impute false and impure motives to the course which the House was pursuing; and his object was, by going at once into an investigation of the matter, to leave no pretext whatever for a misconstruction of the conduct of the House. The gentleman admitted there was no law under which the person accused could be indicted; to refer him to the Attorney-General or District Attorney then was idle; we know no investigation can take place.

Mr. HOPKINSON was unfriendly to the motion to lay the resolutions on the table. After all, it was a mere question of order in the proceeding; but, he said, as the question had already been discussed much at large, and as it must be decided in the end, he thought it was better to do so now, after having gone so far into it, than afterwards to have all that has been done to go over again. At any rate, Mr. H. hoped the House would not abandon the question without bringing it to a decision. A strong reason for prosecuting the inquiry now before the House was, Mr. H. said, that a majority of the gentlemen who delivered their sentiments were on one side; and those on the other side, he said, ought to have an opportunity of submitting also their views of it. He had no idea that the House wished to shrink from an investigation of the latter, whatever appearance it might have, or might be given to it.

Mr. POINDEXTER said, that although he denied the power of the House to punish the individual who had been arrested under the warrant of the Speaker, and whose case was under consideration, he should vote to lay the resolutions offered by Mr. SPENCER on the table. The letter addressed by the accused to the Speaker, which had been read for the information of the House, proposes, on his part, submission to the authority of the House, with a view to explanations and apologies, which he says he is prepared to make. I am willing, said Mr. P., to afford him this opportunity. If the House should be satisfied, after hearing the excuse which may be made by the accused, for his extraordinary conduct, or the apology which he may offer in mitigation of the offence, we shall be enabled to waive for the present a decision of the great constitutional question which has been raised on this occasion, and which is calculated to embarrass the proceedings, and occupy much of the time of this body. With a hope that this might be the result of the proposed explanation, and that suitable provision may be made by law for similar cases, should they hereafter occur, and thereby remove the embarrassment which we experience in the case now under consideration, Mr. P. said he should support the motion to lay the resolutions on the table.

Mr. DESHA was in favor of laying the resolutions on the table. John Anderson prayed to be heard; and if we find, said Mr. D., that he can exonerate himself from the offence, I wish it to be done; because this debate may continue yet many days, all which time the accused must remain in custody, if not heard before. After his examination the discussion can be resumed, and the question settled.

Mr. RICH inquired whether the accused had expressed a wish to be heard at once. If so, Mr. R. was willing to lay the resolutions on the table, and hear him; but, if not, he was opposed to the motion.

Mr. BEECHER remarked, that one reason with him for not wishing to lay the resolutions on the table was, that he had no idea of receiving a petition from a man who was held in custody. Mr. B. was not disposed to hold the accused in custody a moment longer than he had the right; but he was in favor of first trying if the House possess that right or not. I am not willing, said Mr. B., to get rid of this question by permitting the party to come in here, and give evidence against himself, or by allowing him to come forward and admit our jurisdiction in the case.

Mr. PINDALL made a few remarks in coincidence with those of Mr. POINDEXTER, of which he expressed his approbation.

The motion to lay the resolutions on the table was decided in the negative—ayes about 30.

MONDAY, January 12.

Case of John Anderson.

The following resolutions moved by Mr. RHEA, by way of amendment, being yet under consideration:

"*Resolved*, That this House possesseth competent power to punish for contempts of its authority.

"*Therefore*, *Resolved*, That the Sergeant-at-Arms be directed to conduct John Anderson to the bar of the House."

Mr. RHEA, with a view to put his amendment in a shape more acceptable to gentlemen, modified his motion for amendment, so as to make the first resolution read as follows:

"*Resolved*, That this House possess adequate power to punish for contempts against it."

Mr. PITKIN assigned the reasons why he wished to avoid placing on the Journal any thing affirming the authority of the House on the one hand, or denying it on the other: and, to escape the alternative presented to the House by the proposed resolution and amendment, he moved to postpone indefinitely the consideration of the main question and the amendment proposed thereto.

After some questions to the Chair and explanations therefrom, respecting the effect of such a postponement, that effect was pronounced from the Chair to be, to place the question in the state in which it was when the motion of Mr. SPENCER was first made; and, if this course was pursued, that the House would be at full liberty to take any course in respect to John Anderson, which, in its opinion, was within the scope of its constitutional powers.

Mr. RICH, of Vermont, said he hoped that the motion of the gentleman from Connecticut would not prevail; for, after the very able and long discussion which this subject had undergone, it was due to this House and the nation that the sense of the House should be taken on some proposition distinct from the case of John Anderson, in order (if he might be allowed the expression) that the law may be settled in relation to the principle, so far as it could be done, by a solemn decision of the House. With a view to that object, said he, it was my intention, could I have obtained the floor, to have moved an amendment to the amendment offered yesterday by the gentleman from Tennessee. I therefore hope the motion for a postponement will be rejected, that I may still have an opportunity to submit an amendment, having for its object a disavowal of the right to try and punish for offences, and a declaration that the House will abstain from no measures which may be necessary to preserve its deliberations free from interruption, and its members and officers from insult or injury. In order, then, that the House may be informed of the amendment I propose to offer, should an opportunity be afforded me, I will read in my place the one I had prepared.

[Here Mr. R. read the proposed amendment, and concluded by saying]—

I hope, sir, the subject will not be passed by without a distinct decision of the House upon the principle, aside from all considerations of the guilt or innocence of John Anderson.

After explanatory remarks from various members, among whom were Messrs. RHEA, TALLMADGE, BALLARD SMITH, and CULBRETH—

The question was taken on postponement, and decided in the affirmative—for indefinite postponement 117; against it, 42.

The propositions before the House were indefinitely postponed.

Whereupon, Mr. TALLMADGE offered the following resolution for consideration:

"*Resolved*, That John Anderson be forthwith brought to the bar of this House."

The question was then taken on the motion that "John Anderson be forthwith brought to the bar of this House," and decided in the affirmative, by yeas and nays—118 to 45.

Whereupon the Sergeant-at-Arms brought the prisoner to the bar, and the SPEAKER propounded to him the following interrogatories, to which he made the replies thereto:

1. Do you acknowledge yourself to be John Anderson? *Answer.* Yes.

2. Did you write and deliver to Lewis Williams, a member of this House, the letter of which a copy has been furnished to you by the Clerk? *Ans.* I did.

3. From what part of the city did you write the letter? *Ans.* I wrote it at Mr. Bestor's, where I board.

4. What is the amount of your *own* claims, which you are attempting to liquidate? *Ans.* About $9,000.

5. What is the amount of others which you are soliciting? *Ans.* About $21,000.

6. Have you any interest in the latter? *Ans.* None of a pecuniary kind, but am influenced in their pursuit by motives of charity.

7. Had you any authority from the persons you represent to make the offer contained in your letter? *Ans.* I have a general power-of-attorney to do for them as I would do for myself, but had no instructions to make that or any other offer.

8. Are you acquainted with any persons now in the city soliciting the claims of others? If so, name them. *Ans.* I am. There is a Mr. Pomeroy, who is soliciting his own claim, and Col. Watson, who is a general agent.

9. Have you made any other offer to any person? *Ans.* No.

10. Did you consult or advise with any person before you wrote and delivered the letter. *Ans.* I did not.

11. Who is the Mr. Halbard you mention in the letter? *Ans.* He is a gentleman I became partially acquainted with during the troubles at the River Raisin. I have not seen him since that time till I arrived in this city at the commencement of the session of Congress, and did not recognize him until he made himself known to me.

12. Has he any claim to solicit? *Ans.* None to my knowledge.

13. Have you any witnesses to examine, or defence to make, in justification or explanation of your conduct? If you have, the House is now ready to hear you.

The prisoner at the bar then called upon his witnesses, viz: Gen. Harrison, Col. Johnson,

members of the House; Mr. R. J. Meigs, Postmaster General; Capt. Gray, Mr. Cyrus Halbard, Capt. Larrabee, Col. Joseph Watson, Mr. John H. Piatt, Capt. S. D. Richardson, Mr. Pomeroy, Lieut. Conway; who, all being previously sworn, delivered in their testimony.

The testimony was uniform, as far as the knowledge of the witnesses extended, in giving the accused a high character for probity, correct deportment, and patriotic conduct. It is too diffuse for publication.

SATURDAY, January 17.

John Anderson's Case.

John Anderson was then remanded to the bar of the House, and proceeded in the further examination of his witnesses.

General P. B. Porter, William O'Neale, and W. P. Rathbone, were then examined as witnesses in behalf of the accused, whose testimony was to the same effect as that given yesterday.

Mr. WILLIAMS, of North Carolina, was then called upon by the accused, who put to him this question:

Question. Did I ever directly or indirectly, by any verbal communication, offer you any reward or inducement, to influence your good opinion in favor of my claim, or of any other claims?

Answer. You never made me any verbal offer of the kind.

John Anderson. That is all I wished the House to know from your testimony.

Mr. Williams. I presume, if you had made me any such offer, the House would have known it, without your asking it.

On further questions by the SPEAKER to John Anderson, it appears that the accused is a native of Scotland, came to this country at three years old, and is a naturalized citizen.

The SPEAKER then said, he had been instructed to propound to the prisoner the following interrogatory, to which John Anderson made the reply subjoined:

Question. In writing the letter to Lewis Williams, a member of this House from North Carolina, in which you offer to him the sum of five hundred dollars, for services to be performed by him in relation to claims for losses sustained during the late war, had you or had you not any intention to induce him to support your claims against his own convictions of their justice, or to interfere with the discharge of his legislative duties, or to offer any contempt or indignity to the House of Representatives?

Answer. No, sir—I call God to witness to that, which is the most sacred appeal I can make. I repeatedly assured him, that the offer was made without any wish to influence his opinion in any degree.

The accused was then questioned whether he had other witnesses to examine; he replied in the negative. The SPEAKER then called upon him for the defence which he had intimated it was his intention to offer.

The prisoner, then addressing the Chair, with much earnestness, in a brief manner, stated the same palliations of the offence with which he stood charged, as are explained more at large in the following address, which he concluded by delivering to the Clerk, by whom it was read:

"Arraigned at the bar of the highest tribunal of the nation, for an alleged infringement of its privileges, an attack upon its dignity, and the honorable feelings of one of its members, to express the sincere regret I experience, and to apologize for the error I have committed, ought not to suffice. To that body and to myself, I owe an explanation of the motives which governed my conduct. That I have been found in the ranks of our country's defenders, is known to many; and that I have sustained a character unblemished by any act which should crimson my withered cheeks, has been amply proven to you, by men, whose good opinions are the greatest boon of merit. The commencement of the late war found me environed by all the comforts of life; blessed with a sufficiency of property to enable me to wipe from the face of distress the falling tear, and to flatter myself that want was not to salute me before the return of peace. The fallacy of my hopes has been too clearly demonstrated, by the ravages of the war on the borders of Raisin, (my residence,) and the destruction of all the property which my industry had amassed. After having seen the streets of Frenchtown overgrown with grass; sighed unavailingly over the ashes of my own and my neighbors' houses, and witnessed their necessities; reduced to sustain life by means of wild animals, (muskrats,) whose very smell is repulsive to the stomach; I gladly hailed the beneficence of my Government in the enactment of the law, usually called the property act, and, in the month of January, 1817, I took leave of my friends and fellow-sufferers, and repaired to this city to manage their claims; on my arrival, I found that the act under which they expected relief had been suspended, and I was forced to return with this unwelcome information; tears of disappointment suffused the countenances of every one—my heart sympathized with theirs, and I then determined to prosecute their claims to a result. With this view, I had been in this city more than a month; over-anxious to accomplish my object, exalted with the success which had attended some of the claims, and convinced that the Committee of Claims was overwhelmed with business, my inexperience in reference to legislative proceedings induced me to suppose that, to insure despatch, I might without impropriety approach the chairman of the committee with a proposal to compensate him for extra trouble. That I have erred, grossly erred, I am convinced, and my only consolation is, that error is no crime, when it is of the head, not of the heart. Had I acted with less precipitation, and consulted the views of others, I should not at this time find myself in the disagreeable dilemma that I am. I should have acted more consistent with myself. Whatever semblance my request of secrecy may assume, I can with truth aver that its basis in my mind was a desire that those for whom I act should have to acknowledge their increased gratitude for the promptitude with which their claims should have been acted upon.

It cannot be denied, that, after being assured that my own claims would be allowed, I had less cause to think of obtaining by corruption the payment of claims which I almost knew the justice of Congress could not refuse in the sequel. Despatch, then, was all I wished for—all I could gain;—and I think that the world and this honorable body will admit that the benefit of the relief would be in proportion to the

time which should elapse in affording it; at least, that in this view it would be appreciated by those who have yet fresh in their recollection that a husband, a wife, a father, a child, a brother, or sister, was tomahawked, shot, or burned alive, by the savage enemy, their hearts inhumanly torn from their bodies, and whilst yet smoking with the vital heat, were triumphantly exhibited to their weeping eyes. Let it be recollected that they have witnessed, whilst wandering without shelter, and almost unclothed, the heart-rending scene—dead bodies exposed to the voracious appetites of the swine, and these animals eagerly contending for a leg or an arm! Lest this picture may be supposed to be exaggerated, I annex the correspondence which took place between the Hon. A. B. Woodward and General Proctor, in the year 1813, and shortly after the event occurred. Let it be known that most if not all the articles they could collect from the ruins of their houses were generously—most generously—appropriated in the purchase of prisoners of war, for the purpose of screening them from the bloody tomahawk; that these purchases were made under such circumstances as not to entitle them to reimbursement under the "Act relating to the ransom of American captives of the late war." And let it also be known that such are the sufferings, such the merits of the claimants I represent. And I feel confident that the clouds of indignation which for a moment threatened to burst over my frosty head will be dispelled by the benign influence of philanthropy—an influence which has ever, and I trust ever will, characterize my conduct.

"That I should be anxious to afford a prompt solace to the sufferings of my fellow-citizens will not be wondered at, when it is known that they extended every kindness and protection to my family, (from whom I was separated during the most of the war,) and at a time when the Indians were accustomed to dance before the door of my house, calling upon my wife to come out and select her husband's scalp.

"Relying upon the maxim, that 'To err is human, to forgive divine,' I throw myself upon the indulgence of this honorable body, and the magnanimity of the honorable gentleman whose feelings I have had the misfortune to wound. If my services form no claim to indulgence, perhaps my sufferings and those of my family may. I stand here to meet all the consequences of an error committed without any sinister intention.

"In conclusion, I must be permitted to remark, that, during my confinement, from which I have forborne to adopt any legal measures to extricate myself, the only feelings of pain which have had access to my breast were those produced by the knowledge that an opinion was prevalent, that, presuming on the misfortunes of my fellow-sufferers, I had bought up their claims at a very reduced price. If this honorable body would permit, I would, under the solemnity of an oath, call upon God to bear testimony that this opinion is without basis.

"JOHN ANDERSON.

"JANUARY, 1818."

The prisoner being asked if he had any thing further to say, and answering in the negative, was taken from the bar, and the House proceeded to deliberate on the course now proper to be pursued.

One motion, on which the yeas and nays were taken, is worthy of particular notice. It was made by Mr. POINDEXTER, to strike out of that passage which charged John Anderson with being guilty of a contempt against the privileges of the House, the words *the privileges of;* thus denying the House to have any privileges not conferred on them by the constitution. This motion was negatived—108 to 54.

The will of the House was ultimately consummated by the passage of a resolution, in the following words:

"*Resolved*, That John Anderson has been guilty of a contempt and a violation of the privileges of the House, and that he be brought to the bar of the House this day, and be there reprimanded by the Speaker for the outrage he has committed, and then discharged from the custody of the Sergeant-at-Arms."

Whereupon, John Anderson was brought to the bar of the House, and addressed by the SPEAKER, as follows:

"John Anderson: You have been brought before this House upon a charge of having committed a breach of its privileges, in attempting to bribe one of its members, filling a high and responsible situation. The House has patiently heard you in your defence, and, in proportion to the pleasure which it has derived from the concurrent testimonies in support of your character and good conduct heretofore, is its deep regret that you have deliberately attempted to commit a crime so entirely incompatible with the high standing you have heretofore maintained. You have the less apology for the attempt which you made, because you had yourself experienced the justice of this House but a few days before, by the passage of two bills in your favor, founded on petitions presented to the House. Your attempt to corrupt the fountain of legislation—to undermine the integrity of a branch of the National Legislature—is a crime of so deep a dye that even you must acknowledge and be sensible of it. And if, John Anderson, you could have been successful in such an attempt—if it were possible that Representatives of the people could have been found so lost to their duty as to accept your offer—you must yourself see the dreadful consequences of such a deplorable state of things: In your turn you might fall a victim; for your rights, your liberty, and your property, might in the end equally suffer with those of others. The House has seen with pleasure, that, at a very early period after making your base offer, you disclaimed, with symptoms of apparent repentance and contrition, any intention to corrupt the integrity of a member; and, in directing me to pronounce your discharge, the House indulges the hope that, on your return home, you will be more fully convinced of the magnitude of your offence, and by the future tenor of your life endeavor to obliterate, as far as it may be possible, the stain your conduct on this occasion has impressed on the high and honorable character you appear to have previously sustained. You are discharged from the custody of the Sergeant-at-Arms."

Whereupon, John Anderson was discharged from custody, and the House adjourned to Monday.

TUESDAY, January 20.

General Kosciusko.

Mr. HARRISON submitted the following resolution; which was read, and ordered to lie on the table:

Resolved, That a committee be appointed, jointly with such committee as may be appointed on the part of the Senate, to consider and report what measures it may be proper to adopt to manifest the public respect for the memory of General Thaddeus Kosciusko, formerly an officer in the service of the United States, and the uniform and distinguished friend of liberty and the rights of man.

Mr. HARRISON accompanied his motion with the following observations:

The public papers have announced an event which is well calculated to excite the sympathy of every American bosom! Kosciusko, the martyr of liberty, is no more! We are informed that he died at Soleure, in France, some time in October last.

In tracing the events of this great man's life, we find in him that consistency of conduct which is the more to be admired as it is so rarely to be met with. He was not at one time the friend of mankind, and at another the instrument of their oppression;—but he preserved throughout his whole career those noble principles which distinguished him in its commencement—which influenced him at an early period of his life to leave his country and his friends, and in another hemisphere to fight for the rights of humanity.

Kosciusko was born and educated in Poland, of a noble and distinguished family—a country where the distinctions in society are perhaps carried to greater lengths than in any other. His Creator had, however, endowed him with a soul capable of rising above the narrow prejudices of a caste, and breaking the shackles which a vicious education had imposed on his mind.

When very young, he was informed by the voice of fame that the standard of liberty had been erected in America—that an insulted and oppressed people had determined to be free, or perish in the attempt. His ardent and generous mind caught, with enthusiasm, the holy flame, and from that moment he became the devoted soldier of liberty.

His rank in the American army afforded him no opportunity greatly to distinguish himself. But he was remarked, throughout his service, for all the qualities which adorn the human character. His heroic valor in the field could only be equalled by his moderation and affability in the walks of private life. He was idolized by the soldiers for his bravery, and beloved and respected by the officers for the goodness of his heart, and the great qualities of his mind.

Contributing greatly, by his exertions, to the establishment of the independence of America, he might have remained, and shared the blessings it dispensed, under the protection of a chief who loved and honored him, and in the bosom of a grateful and affectionate people.

Kosciusko had, however, other views. It is not known that, until the period I am speaking of, he had formed any distinct idea of what could, or indeed what ought, to be done for his own. But in the Revolutionary war he drank deeply of the principles which produced it. In his conversations with the intelligent men of our country, he acquired new views of the science of government and the rights of man. He had seen, too, that to be free it was only necessary that a nation should will it, and to be happy it was only necessary that a nation should be free. And was it not possible to procure these blessings for Poland? For Poland, the country of his birth, which had a claim to all his efforts, to all his services? That unhappy nation groaned under a complication of evils which has scarcely a parallel in history. The mass of the people were the abject slaves of the nobles; the nobles, torn into factions, were alternately the instruments and the victims of their powerful and ambitious neighbors. By intrigue, corruption, and force, some of its fairest provinces had been separated from the Republic, and the people, like beasts, transferred to foreign despots, who were again watching for a favorable moment for a second dismemberment. To regenerate a people thus debased—to obtain for a country thus circumstanced the blessings of liberty and independence, was a work of as much difficulty as danger. But, to a mind like Kosciusko's, the difficulty and danger of an enterprise served as stimulants to undertake it.

The annals of these times give us no detailed account of the progress of Kosciusko in accomplishing his great work, from the period of his return from America to the adoption of the new constitution of Poland, in 1791. This interval, however, of apparent inaction, was most usefully employed to illumine the mental darkness which enveloped his countrymen. To stimulate the ignorant and bigoted peasantry with the hope of future emancipation—to teach a proud but gallant nobility that true glory is only to be found in the paths of duty and patriotism—interests the most opposed, prejudices the most stubborn, and habits the most inveterate, were reconciled, dissipated, and broken, by the ascendency of his virtues and example. The storm which he had foreseen, and for which he had been preparing, at length burst upon Poland. A feeble and unpopular Government bent before its fury, and submitted itself to the Russian yoke of the invader. But the nation disdained to follow its example; in their extremity every eye was turned on the hero who had already fought their battles—the sage who had enlightened them, and the patriot who had set the example of personal sacrifices to accomplish the emancipation of the people.

Kosciusko was unanimously appointed Generalissimo of Poland, with unlimited powers, until the enemy should be driven from the country. On *his* virtue the nation reposed with the utmost confidence; and it is some consolation to reflect, amidst the general depravity of mankind, that two instances, in the same age, have occurred where powers of this kind were em-

ployed solely for the purposes for which they were given.

It is not my intention, sir, to follow the Polish chief throughout the career of victory which, for a considerable time, crowned his efforts. Guided by his talents, and led by his valor, his undisciplined, illy-armed militia charged with effect the veteran Russian and Prussian; the mailed cuirassiers of the great Frederick, for the first time, broke and fled before the lighter and appropriate cavalry of Poland. Hope filled the breasts of the patriots. After a long night, the dawn of an apparently glorious day broke upon Poland. But, to the discerning eye of Kosciusko, the light which it shed was of that sickly and portentous appearance, indicating a storm more dreadful than that which he had resisted.

He prepared to meet it with firmness, but with means entirely inadequate. To the advantages of numbers, of tactics, of discipline, and inexhaustible resources, the combined despots had secured a faction in the heart of Poland. And, if that country can boast of a WASHINGTON, it is disgraced also by giving birth to a second Arnold. The day at length came which was to decide the fate of a nation and a hero. Heaven, for wise purposes, determined that it should be the last of Polish liberty. It was decided, indeed, before the battle commenced. The traitor Poniski, who covered with a detachment the advance of the Polish army, abandoned his position to the enemy and retreated.

Kosciusko was astonished, but not dismayed. The disposition of his army would have done honor to Hannibal. The succeeding conflict was terrible. When the talents of the General could no longer direct the mingled mass of combatants, the arm of the warrior was brought to the aid of his soldiers. He performed prodigies of valor. The fabled prowess of Ajax, in defending the Grecian ships, was realized by the Polish hero. Nor was he badly seconded by his troops. As long as his voice could guide, or his example fired their valor, they were irresistible. In this unequal contest Kosciusko was long seen, and finally lost to their view.

"Hope for a season bade the world farewell,
And Freedom shriek'd when Kosciusko fell."

He fell covered with wounds, but still survived. A Cossack would have pierced his breast, when an officer interposed. "Suffer him to execute his purpose," said the bleeding hero; "I am the devoted soldier of my country, and will not survive its liberties." The name of Kosciusko struck to the heart of the Tartar, like that of Marius upon the Cimbrian warrior. The uplifted weapon dropped from his hand.

Kosciusko was conveyed to the dungeons of Petersburg; and, to the eternal disgrace of the Empress Catharine, she made him the object of her vengeance, when he could be no longer the object of her fears. Her more generous son restored him to liberty. The remainder of his life has been spent in virtuous retirement. Whilst in this situation in France, an anecdote is related of him which strongly illustrates the command which his virtues and his services had obtained over the minds of his countrymen.

In the late invasion of France, some Polish regiments in the service of Russia passed through the village in which he lived. Some pillaging of the inhabitants brought Kosciusko from his cottage. "When I was a Polish soldier," said he, addressing the plunderers, "the property of the peaceful citizen was respected." "And who art thou," said an officer, "who addresses us with this tone of authority?" "I am Kosciusko!" There was magic in the word. It ran from corps to corps. The march was suspended. They gathered round him, and gazed, with astonishment and awe, upon the mighty ruin he presented. "Could it indeed be their hero," whose fame was identified with that of their country? A thousand interesting reflections burst upon their minds; they remembered his patriotism, his devotion to liberty, his triumphs, and his glorious fall. Their iron hearts were softened, and the tear of sensibility trickled down their weather-beaten faces. We can easily conceive, sir, what would be the feelings of the hero himself in such a scene. His great heart must have heaved with emotion, to find himself once more surrounded by the companions of his glory; and that he would have been upon the point of saying to them—

"Behold your General! come once more
To lead you on to laurel'd victory,
To fame, to freedom."

The delusion could have lasted but for a moment. He was himself, alas! a miserable cripple; and, for them! they were no longer the soldiers of liberty, but the instruments of ambition and tyranny. Overwhelmed with grief at the reflection, he would retire to his cottage, to mourn afresh over the miseries of his country.

Such was the man, sir, for whose memory I ask from an American Congress a slight tribute of respect. Not, sir, to perpetuate his fame—but our gratitude. His fame will last as long as liberty remains upon the earth; as long as a votary offers incense upon her altar, the name of Kosciusko will be invoked. And if, by the common consent of the world, a temple shall be erected to those who have rendered most service to mankind, if the statue of our great countryman shall occupy the place of the "Most Worthy," that of Kosciusko will be found by his side, and the wreath of laurel will be entwined with the palm of virtue to adorn his brow.

WEDNESDAY, January 21.

Another member, to wit, from Massachu-

setts, THOMAS RICE, appeared, produced his credentials, and took his seat.

THURSDAY, January 22.

The resolution from the Senate, directing "the publication and distribution of the journal, and proceedings of the convention which formed the present Constitution of the United States," was read twice, and committed to the committee appointed by this House on the 7th instant, upon that subject.

General Kosciusko.

Mr. HARRISON, of Ohio, having withdrawn the resolution he offered for consideration yesterday, to which he understood there was considerable objection, on the ground of its being in a joint form, moved, in lieu thereof, a resolve to the following effect, with a view to expressing the sense of this House alone on the subject:

Resolved, That this House, entertaining the highest respect for the memory of General Kosciusko, his services, &c., the members thereof will testify the same by wearing crape on the left arm for one month.

After some debate, in which this motion was supported by Mr. HARRISON, and opposed by Messrs. REED, FORSYTH, and DESHA—

Mr. HARRISON withdrew his resolution altogether, seeing it was opposed, and that the want of unanimity would destroy its value—satisfied that, in moving and supporting it, he had acquitted his conscience.

[In the short debate on this question, the merits of Kosciusko, the advocate of freedom, and the friend of man, were fully admitted; but, it was shown that no such respect as was now proposed had been paid to any of the departed worthies, native or foreign, who had aided in the achievement of our independence, except in the single case of General WASHINGTON, which was admitted to be an exception to all general rules. Having as recently as 1810 refused a like tribute to the memory of Colonel William Washington, on his decease, it was too late now, it was deemed, to commence a new system in this respect.]

Indian Affairs.

Mr. SOUTHARD, from the committee appointed on so much of the President's Message as relates to Indian Affairs, made a report upon the subject, which was read; when, Mr. S. reported a bill, for establishing trading-houses with the Indian tribes, and for the organization and encouragement of schools for their instruction and civilization; which was read twice and committed to a Committee of the Whole. The report is as follows:

The committee to whom was referred so much of the President's Message as relates to Indian Affairs, report: That the capital appropriated for prosecution of Indian trade was, in 1809, augmented from $200,000 to $300,000; which sum, by succeeding acts, has been continued down to this period. Of the capital thus appropriated, $290,000 have been drawn from the Treasury, and actively employed under direction of the Superintendent of Indian Supplies. Under the various laws enacted for the support and encouragement of Indian trade, eight factories or trading posts have been established at the following points:

1. Fort Mitchell, Georgia.
2. Chickasaw Bluffs, Mississippi Territory.
3. Fort Confederation, on the Tombigbee river.
4. Fort Osage, on the Missouri river, near the mouth of the Osage.
5. Prairie du Chien, on the Mississippi, near the mouth of the Wisconsin river.
6. Ordered to Sulphur Fork, on Red river, formerly at Natchitoches.
7. Green Bay, on the Green Bay of Lake Michigan, Illinois Territory.
8. Chicago, Lake Michigan.

The committee deem it unnecessary to present a detailed view of the profits and loss of each particular agency, and submit, in relation to the general establishment, that it has been a losing institution, owing, it is presumable, to adventitious circumstances, originating in our late belligerent state, and not growing out of any defect in the organization or government of the trade. From the first operation of this traffic up to December, 1809, it sustained a loss of $44,538 36. Since that period the trade has been more successful, it having yielded a profit, on the capital actually vested in the merchandise, of about $15,000 annually, after covering a loss of $13,369, which accrued in consequence of the capture of several trading posts by the enemy during the late war.

In this view of the subject the committee have not embraced an item of $20,000, annually disbursed at the Treasury for the Superintendent and his clerks, the factories, &c., and which, when applied to the concern, as necessarily it must be in making an estimate of profit and loss, will absorb the profits arising from the funds employed in trade, and furnish an annual charge against the establishment of $5,000. This annual loss being sustained by the Treasury, pursuant to appropriations for the pay of the Superintendent and his assistants, is a loss to the Government but not to the concern, in the diminution of its capital, which, under all circumstances, remains stationary.

The act passed 29th of April, 1816, giving to the President the discretionary power of licensing foreigners to a participation in the Indian trade, is less exceptionable in theory than in practice. With all the guards of the act and precautions of the Executive, it has been found impracticable, under dispensing power, to avoid the admission of men of vicious habits, whose conduct tends to interrupt the peace and harmony of the United States and the Indian tribes; nor can such be introduced while the door is left open to foreign traders; either admit or exclude all. A system partial in its character will, by inhibiting a worthy applicant, do him injustice; and, by permitting the fraudulent speculator, the savage for whom the provision is made and the country are wronged. The Executive must rely on recommendations in the exercise of the power deposited with him, and, no doubt, is often deceived in the character of persons recommended to Presidential patronage.

MONDAY, January 26.

Two other members, to wit: from Massachu-

setts, JOHN WILSON, and from North Carolina, JAMES STEWART, appeared, produced their credentials, were qualified, and took their seats.

TUESDAY, January 27.

Mr. WILLIAMS, of Connecticut, presented the petition of Elizabeth Eaton, the widow of the late General William Eaton, stating the services and sacrifices of her late husband in the public service, the poverty in which he left her and her children, the loss of two of her sons, one in the naval and the other in the military service of the United States, and praying that some provision may be made for her maintenance, and for the support and education of the children of the said General Eaton.—Referred to the Committee on Military Affairs.

Mr. CLAIBORNE presented a remonstrance of Andrew Jackson, in behalf of himself and in right of his wife, and as agent for the heirs and representatives of Colonel John Donelson, deceased, stating, that by the act of the State of Georgia, of the 20th February, 1784, the said Donelson was appointed one of the commissioners for laying out a new county, in the Big Bend of the Tennessee river, for which services he became entitled to a large tract of land lying in said county, which they have been unable to obtain, for reasons set forth in the petition, and soliciting a conveyance thereof to him, and the rest of the heirs of said Donelson; which was referred to a select committee; and Mr. CLAIBORNE, Mr. COBB, Mr. HOGG, Mr. SETTLE, and Mr. CRAWFORD, were appointed the committee.

Mr. CLAIBORNE also presented a similar petition of George W. Sevier, for and in behalf of himself and the other heirs and representatives of the late General John Sevier, deceased; which was referred to the committee last appointed.

Fugitives from Justice and Service.

The order of the day on the bill "respecting fugitives from justice, and persons escaping from the service of their masters," having been announced—

Mr. RICH moved to commit the bill to a different committee, with a view of considering the propriety of certain amendments. After some little discussion, the motion was negatived.

The House then resolved itself into a Committee of the Whole on the bill.

The question was on an amendment proposed by Mr. RICH to the bill, which has for its object the preventing the transportation, in any manner, of any negro, mulatto, or person of color, without having previously carried the same before some judge or justice of a court of record, and giving sufficient proof of their being slaves, and the property of the person by whose authority they are so removed, under the penalty of a sum not exceeding ten thousand dollars.

This amendment Mr. STORRS had proposed to amend, by substituting in lieu thereof a new section, in the following words:

"That, if any person without colorable claim, shall knowingly and wilfully procure or cause to be procured any such certificate or warrant, [of his property in any particular individual,] with intention, under color or pretence thereof, or the provisions of this act, to arrest, detain, or transport, or cause to be arrested, detained, or transported, any person whatsoever, not held to labor or service as aforesaid, he or she, on conviction thereof, shall suffer imprisonment, not exceeding fifteen years, or fined not exceeding five thousand dollars, or both, in the discretion of the court before whom such conviction shall be had."

Messrs. STORRS and PINDALL advocated the amendment to the amendment, on the ground of the difficulty of the subject, the very magnitude of which was a sufficient reason, it was said, why it should not be appended to this bill, but ought to be made the subject of a separate act.

Mr. RICH vindicated his own amendment, on the ground of the enormity of the crime of kidnapping, repeated cases of which had occurred, and which appeared to him to require the interposition of the Legislature.

The amendment to the amendment was agreed to, and then incorporated in the bill, by a considerable majority.

Mr. CLAGETT said he should make but few remarks upon this occasion. Since this bill has been under discussion, said he, I have given it due attention, but have not been able to perceive a satisfactory reason for its passage; nor am I without surprise that it should have so many advocates. The law of 1793, in pursuance of the 2d sect. 4th art. of the constitution, enacts, "that when a person, held to labor or service in any of the United States, or in either of the Territories, under the laws thereof, shall escape into any other of the said States or Territories, the person to whom such labor or service may be due, his agent or attorney, shall have power to seize or arrest such fugitive, and take him or her before any judge of a circuit or district court of the United States, residing or being within the State, or before any magistrate of a county, city, or town corporate, wherein such seizure or arrest shall have been made, and upon proof, to the satisfaction of such judge or magistrate, that the person so seized, doth, under the laws of the State from whence he fled, owe service or labor to the person claiming him, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, which shall be a sufficient warrant for removing such fugitive to the State from whence he fled." And, by the same law, any person who shall obstruct such claimant in seizing a fugitive, or rescue him after seizure, or harbor or conceal him, knowing him to be a fugitive, shall incur a penalty of five hundred dollars to the use of such claimant, and be also liable to the party for all other damages by him sustained. Sir, however I may differ in opinion from some honorable gentlemen upon the question of right to this service, abstractly consid-

ered, I do not hesitate to say, that the clause of the constitution, under which we legislate, is imperative—that it is a part of a solemn compact between the several States in the Union, and we are bound to carry it into complete effect. But does not the law cited secure to the claimants all the rights which the constitution guaranteed to them? Certainly it does. By the law now in force, the claimant may, in the first instance, without a warrant, arrest the fugitive, and carry him before a tribunal for examination. This is a great latitude, and there is danger of an abuse of this power to the injury of the free citizen, who may never appear before such tribunal! If any amendment of this law be necessary, it is to restrain the claimant from an abuse of power; but no such amendment has been proposed. The courts of the United States are the only proper tribunals to take cognizance of the subject; and magistrates of a State, as such, are not bound by your law. Why, then, make this amendment?

But, sir, while we are scrupulously guarding from encroachments one clause of our constitution, let us be cautious lest we infract another, equally important. It is not only my duty, but my sincere desire, to preserve every part of this sacred instrument, upon which our national happiness depends. And now, sir, let me solicit your attention to the 9th sect. of the 1st art. of this constitution, in these words: "The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it." Will not this bill, if it pass into a law, virtually suspend the writ of habeas corpus—at least its effect? In my opinion it will: for this bill provides, if such writ issue, and it shall appear, upon its return, that the supposed fugitive was arrested under this law, (and it may be by order of a justice of the peace,) such fugitive shall be remanded into the custody of the officer who arrested him.

For these reasons, sir, I shall give a negative vote to the bill on your table.

Mr. PINDALL said, the bill professes to impose a duty, to be performed by stated judges, in relation to the recovery of runaway slaves. The enactment of the bill does not, it is said, imply what the opinion of the House or the friends of the bill may be on the question of the power of Congress to impose any other duties on the State courts.

A gentleman mentioned, during the debate, as an objection to the bill, that it imposed duties upon State judges and officers, to which Mr. PINDALL (the chairman of the committee that reported the bill) replied, that those who believed this subject involved the broad question, whether Congress had the right in all cases to require the execution of its laws through the instrumentality of State officers, would, if so disposed, be able to say much in favor of the power. Indeed, some might contend, with plausibility, that the question ought to be considered as settled; or an argument the same or similar to that derived from what has been called *contemporaneous practice*, might be deduced from the earliest acts of this Government. Congress had repeatedly passed laws depending for their execution on State courts. This consideration might, in the estimation of some gentlemen, weigh against the objection of the member from Massachusetts, but he (Mr. P.) did not rely upon it.

He said it was possible that the framers of the constitution did not wish that the right of Congress to impose duties upon State officers should be coextensive with the powers of legislation granted by that instrument, and yet may have intended that such a power should exist in some cases, or under some circumstances. Although he would not intermeddle with the abstract inquiry, whether Congress could, in all its legislative province, impose upon a judicial or ministerial State officer an obligation to execute the laws of the Union, he would insist on his right to exercise the power in the instance contemplated by the bill. The clause of the constitution on which the bill rested, declared that no person, held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on the claim of the party to whom such service or labor may be due. This clause, he said, was a regulation between the respective States, conferring rights on some States and obligations on others; but the right, when exerted for the benefit of the slaveholder, manifests itself by means of the laws of his State; for the clause just quoted speaks of persons held to labor *in one State, under the laws thereof*. The laws of the State are made known, interpreted, and expounded by the official acts and decisions of State judges and officers.

Again: the slave, taking refuge in another State, *shall be delivered up*. This duty of delivering up the slave is not imposed on private men or individuals, as in a state of nature, or it might never be performed; besides, private men are not necessarily supposed to have the slave in their possession or power. The duty of delivering up the slave is imposed on the State, and the State, as all other civil or social political powers, necessarily, or at least usually, acts by the intervention of its officers.

It being thus shown, in regard to this clause of the constitution, that a right and corresponding obligation are established between different States, which, by ordinary interpretation, depend for their development and exercise upon the proper officers of each State; and it being admitted on all sides that Congress has the power to regulate the due exercise of that right, and enforce the performance of that obligation, it follows that Congress can make a law to regulate the conduct of these State officers in the performance of their duty.

Further debate took place on the bill, and on an amendment proposed by Mr. BALDWIN.

Mr. FULLER then, after an ingenious speech of considerable length, moved to strike out the first section of the bill, with a view to destroy it entirely, on the ground that it transcended the constitutional provisions on the subject. He also took exceptions to various features of the bill.

Mr. STRONG, in a more decided manner, expressed his opposition to the bill, on the ground that the act already in existence on that subject had gone full far enough in carrying into execution the constitutional provision on that subject, which he regarded as a compact, the mode of executing which the non-slaveholding States had reserved, and were at liberty to judge of when proposed to them, &c.

Mr. COBB replied to the two gentlemen from Massachusetts, vindicating the rights of the holders of that description of property, as secured by the constitution, as inalienable, and as inviolable on any pretext by those who were averse to the toleration of slavery, &c.

Mr. STRONG rejoined.

Mr. HOPKINSON stated certain objections to the form of this bill, under which he thought it possible that freemen might be apprehended as slaves, without the necessary means of redress.

Mr. HOLMES, of Massachusetts, made some remarks, of a nature conciliatory to the prejudices existing on both sides of this question, and intimated that, though he was not in favor of all the provisions of this bill, he should vote against striking out the first section, because he thought that the bill might be so moulded as to be unobjectionable to any.

Mr. CLAY (Speaker) then engaged in the debate, being called up by the peculiar interest which the State of which he is a representative has in the passage of the bill. The nature of slave property, its evils, and the rights of its possessors, were illustrated with great force, and the necessity for the passage of an act of this sort sustained by many arguments, in a speech of considerable length.

Mr. BALDWIN rose on the question of construction which had been given by some gentlemen to the constitutional provision; which, he contended, conferred on Congress full power to legislate on the subject, so as to give the strongest security to the holders of slave property.

The motion to strike out the first section was negatived by a large majority.

Some further amendments having been made to the bill, the committee rose, and reported the bill as amended, and the House adjourned.

THURSDAY, January 29.

Fugitives from Justice and Service.

The House having resumed the consideration of the bill to amend the act, entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters"—

Mr. RICH moved to recommit the bill to the committee to whom has been referred the memorial of the annual meeting of the Society of Friends at Baltimore, with a view of so amending the bill as to guard more effectually the rights of free persons of color. This motion he enforced by urging the oppressions to which these people were now subjected, and the necessity of some regulation on the subject, which he thought might be very properly connected with this bill.

Mr. PINDALL objected to the recommitment, especially as the House had already once decided against doing so, on the same ground of the want of necessary connection of the proposed amendment with the bill.

Mr. SMITH, of Maryland, suggested that the subject of the protection of free people of color, being of a distinct nature from this, was already before a committee, who would without doubt make a special report on the subject. Under this impression, Mr. S. said he should vote against the motion for recommitment.

Mr. RHEA was also opposed to the recommitment, and made some general remarks respecting slavery, in the course of which he intimated his opinion that the Government had shown its aversion to slavery in every manner in its power, and could not do more, unless by an arbitrary abolition of slavery, which no one would propose. If slavery must exist, as guaranteed by the constitution, he was surprised at the opposition made to ridding it of some of its evils, by preventing escapes, &c.

Mr. LIVERMORE said, although not favorable to the bill, he should vote against a recommitment, because he wished that those who were friendly to the bill might have the opportunity, by amendment, to make it as perfect as possible.

Mr. W. P. MACLAY was in favor of recommitment. Admitting the force of the constitutional provision, which secured the right of proprietors to reclaim their runaway slaves, he was not for going further than necessary; and appeared moreover to be highly impressed with the importance of connecting with this bill a provision to prevent the apprehension of free persons of color, under pretence of their being slaves.

The question on recommitment of the bill was decided in the negative, without a division.

Further debate took place on the question of concurrence in some of the amendments made to the bill in the Committee of the Whole, and on several other amendments proposed, in the course of which Messrs. PINDALL, SERGEANT, SPENCER, BALDWIN, RICH, TERRY, BEECHER, and others, actively exerted themselves.

Mr. SERGEANT made a proposition, having in view to materially change the nature of the bill by making judges of the State in which the apprentices, slaves, &c., are seized, the tribunal to decide the fact of slavery, instead of the judges of the States whence the fugitives have escaped. This was negatived by a large majority.

Mr. RICH made several successive attempts

to procure amendments to the bill, relaxing some of its provisions, which were successively negatived.

The debate, though not very interesting, was zealously persisted in to a late hour.

The question being on ordering the bill to a third reading—

A motion was made by Mr. W. P. MACLAY to postpone the bill to Monday next; which motion was negatived—79 to 62.

After two or three ineffectual motions to procure an adjournment, and to further amend the bill—

The question was at length taken, "Shall the bill be engrossed, and read a third time?" and decided, by yeas and nays:—For the bill 86, against it 55, as follows:

YEAS.—Messrs. Abbott, Anderson of Kentucky, Austin, Baldwin, Ball, Bassett, Bayley, Beecher, Bellinger, Bloomfield, Blount, Bryan, Burwell, Campbell, Claiborne, Cobb, Cook, Crawford, Cruger, Desha, Drake, Earle, Edwards, Ellicott, Ervin of South Carolina, Floyd, Forney, Forsyth, Garnett, Hall of Delaware, Hall of North Carolina, Harrison, Hogg, Holmes of Massachusetts, Hubbard, Johnson of Virginia, Johnson of Kentucky, Lewis, Linn, Little, Lowndes, McLane, McCoy, Marchand, Marr, Mason of Massachusetts, Middleton, Moore, Mumford, H. Nelson, Nesbitt, Newton, Owen, Palmer, Patterson, Peter, Pindall, Pleasants, Poindexter, Porter, Quarles, Reed, Rhea, Ringgold, Robertson of Kentucky, Ruggles, Sampson, Sawyer, Settle, Slocumb, S. Smith, Ballard Smith, Alexander Smyth, Southard, Speed, Spencer, Stewart of North Carolina, Storrs, Strother, Stuart, Tompkins, Trimble, Tucker of South Carolina, Walker of North Carolina, Williams of North Carolina, and Wilson of Massachusetts.

NAYS.—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Bateman, Bennett, Boss, Butler, Clagett, Crafts, Culbreth, Folger, Hale, Hendricks, Herrick, Hitchcock, Holmes of Connecticut, Hopkinson, Hunter, Huntington, Ingham, Irving of New York, Kinsey, Lawyer, Livermore, W. Maclay, W. P. Maclay, Merrill, Morton, Murray, Jeremiah Nelson, Orr, Parrott, Pawling, Rice, Rich, Richards, Savage, Scudder, Sergeant, Seybert, Sherwood, Silsbee, Spangler, Strong, Tarr, Taylor, Terry, Upham, Wallace, Wendover, Williams of Connecticut, Williams of New York, Wilkin, and Wilson of Pennsylvania.

The bill was then ordered to be read the third time to-morrow.

FRIDAY, January 30.

Fugitives from Justice and Service.

The House having resumed the consideration of the bill providing for the recovery of fugitive slaves, and the question having been announced to be on the passage of the bill—

Mr. ADAMS, of Massachusetts, opposed the bill at much length; on the ground principally that, in guaranteeing the possession of slave property to those States holding it, the constitution did not authorize or require the General Government to go as far as this bill proposed, to render the constitutional provision effectual; that the bill contained provisions dangerous to the liberty and safety of the free people of color in other sections in the Union; and that, in securing the rights of one portion of the community, he could not consent to jeopardize those of another.

Mr. ANDERSON, of Kentucky, spoke some time very earnestly in support of the bill, and in reply to the objections urged by the gentlemen who had at different times opposed it.

Mr. LIVERMORE, of New Hampshire, submitted the reasons for his intention to vote against the bill. He was willing to go to the necessary extent in securing to the owners of this species of property, permitted as it was by the constitution; but the bill contained no sufficient guard to the safety of those colored people who resided in the States where slavery was known only by name. The bill provided that alleged fugitives were not to be identified and proven until they reached the State in which the person seizing them resided; and this would expose the free men of other parts to the hazard of being dragged from one extreme of the country to the other—though this fear was not strengthened by any want of respect for the wisdom and justice of the Southern judiciaries, to which he paid the highest compliment; but the feelings entertained on the subject in the South, he feared, would make less secure the liberty of any colored man carried there, and charged with being a fugitive.

Mr. MASON, of Massachusetts, delivered at length his motives for approving the bill. The constitution, formed in the spirit of compromise, had guaranteed this kind of property to the Southern States, and as it appeared from the insufficiency of the existing laws, that the proposed bill was necessary to secure this right, he was willing to adopt the measure, as he was always willing to approve any measure to effect what the constitution sanctioned. The possible abuse of any thing was no argument against it, if otherwise expedient, and on this ground he was not prepared to reject the feature of the bill so much opposed. The judicial tribunals of the South, he had no doubt, would decide on the cases as correctly as those of the North, and on this subject perhaps more so, as, he believed, so strong was the feeling on this subject in the latter section of the country, and so great a leaning was there against slavery, that the juries of Massachusetts would, in ninety-nine cases in a hundred, decide in favor of the fugitive. His feelings on this bill were also somewhat interested; as he wished not, by denying just facilities for the recovery of fugitive slaves, to have the town where he lived (Boston) infested, as it would be, without an effectual restraint, with a great portion of the runaways from the South.

Mr. HOLMES, of Massachusetts, followed his colleague in submitting his reasons for approving the bill, and to reconcile the apparent contradiction in a gentleman from his part of the country appearing as the supporter of this bill. His course on this, as on other measures, was based on his duty as a Representative for the

whole Union, instead of local interests. This measure, it appeared, was necessary to secure the constitutional rights of a large portion of the States; and, as to the provision so strongly objected to by some gentlemen, he did not think it competent in Massachusetts to try a question between a Southern master and his slave; it was a kind of question, with which his constituents, to their honor, were not familiar, and he wished them to remain so. He did not believe the freedom of a single man in the North would be endangered by this provision of the bill; the *habeas corpus* would prevent it; and he went into various arguments to prove that the bill was expedient, and free from the evils apprehended by other gentlemen.

Mr. RHEA made some observations in support of the bill, and in reply to the arguments against it. So long as this property was authorized, there could be no doubt of the right of the holder to pursue it, and carry it back without hindrance to the place from whence it escapes. He thanked Heaven this nation was not chargeable with the odium of introducing this species of property; it was an evil entailed on it; and this bill was in conformity with the principles of the compact which guaranteed this property to its holders. There was little danger of persons going from the South to claim free men as their property; such a fear was without foundation. He always felt pain in hearing distinctions made between the slaveholding States and others; nearly all the old original thirteen States had held slaves, and, if circumstances had enabled some of them to get rid of the evil, the only feeling they ought to entertain towards the others, is compassion that they are not so fortunate.

Mr. STORRS, of New York, entered into a number of arguments in support of the bill. He referred to and reasoned on the words of the constitution, to show that the bill was consonant to its provisions, and did not exceed the limits within which Congress were authorized to legislate on the subject. He expressed his pleasure at the liberality which had been manifested by some in its discussion, but should like to see a little more displayed by gentlemen from the North, as an evidence they were willing to sacrifice some of their old prejudices to the spirit of harmony and mutual benefit.

Mr. WHITMAN, of Massachusetts, admitted the necessity of some additional regulations on this subject, as the existing law appeared inadequate; but he could not vote for this bill in its present shape. He objected to that provision, which makes it penal in a State officer to refuse his assistance in executing the act. This feature, if retained, would prevent his voting for the bill, as its penalties would require the State officers either to resign or perform an act which might be repugnant to their feelings, and render their official stations frequently disagreeable. Furthermore, he did not believe Congress had the right to compel the State officers to perform this duty—they could only authorize it; and, as he believed the bill might be made effectual without this objectionable provision, he hoped it would be recommitted, and receive the necessary modification. In reference to a remark of his colleague, (Mr. MASON,) he had no doubt that justice would be administered under this act by the tribunals of Massachusetts, if the duty were devolved on them, as impartially as in any other part of the Union, notwithstanding the prejudices they felt on the subject; yet he did not doubt that exact justice would also be rendered by the tribunals of the South, where prejudices were felt of an opposite character.

Mr. WILLIAMS, of Connecticut, was called up by the remark of Mr. STORRS, and admitted that if he could not and had not banished all his local prejudices, he ought to have done so. Mr. W. then entered, at large, into an examination of the bill, into his reasons for opposing it unless it was altered in some of its features, and to show that in its present shape it was calculated to excite angry feelings, and rouse strong prejudices in those parts of the country where slavery was not tolerated. This effect would be produced by that provision under which a free man of color might be unjustly seized and dragged to a remote part of the country, and his liberty endangered, if not destroyed. In attempting, properly, he admitted, to secure the right of property to one class of citizens, it was unjust that the rights of another class should be put in jeopardy, when, too, as he contended, the danger might be avoided, in one case, without impairing the benefit in the other. Although he wished not to interfere between a slave and his master, yet he argued that the right ought to be tried in the State in which the fugitive should be arrested; and compared the case to that of a runaway apprentice, who could not be seized and carried away by the ex parte testimony of the person claiming him.

The question on the passage of the bill was then taken, and decided in the affirmative—yeas 84, nays 69, as follows:

YEAS.—Messrs. Abbott, Anderson of Kentucky, Austin, Baldwin, Bassett, Bayley, Bellinger, Bloomfield, Bryan, Burwell, Campbell, Cobb, Colston, Cook, Crawford, Desha, Drake, Earle, Edwards, Ervin of South Carolina, Floyd, Forney, Forsyth, Garnett, Hall of Delaware, Hall of North Carolina, Hasbrouck, Herbert, Herkimer, Hogg, Holmes of Massachusetts, Hubbard, Johnson of Virginia, Johnson of Kentucky, Lewis, Little, Lowndes, McLane, McCoy, Marchand, Marr, Mason of Massachusetts, Mercer, Middleton, Moore, Mumford, H. Nelson, Nesbitt, New, Newton, Ogden, Owen, Palmer, Patterson, Peter, Pindall, Pleasants, Poindexter, Quarles, Reed, Rhea, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Ruggles, Sampson, Settle, Slocumb, S. Smith, B. Smith, J. S. Smith, Speed, Spencer, Stewart of North Carolina, Storrs, Strother, Stuart of Marland, Tompkins, Trimble, Tucker of South Carolina, Tyler, Walker of North Carolina, Williams of North Carolina, and Wilson of Massachusetts.

NAYS.—Messrs. Adams, Allen of Massachusetts,

Allen of Vermont, Anderson of Pennsylvania, Ball, Barber of Ohio, Bateman, Beecher, Bennett, Boden, Boss, Clagett, Comstock, Crafts, Culbreth, Cushman, Folger, Fuller, Gage, Hale, Hendricks, Herrick, Heister, Hitchcock, Hopkinson, Hunter, Huntington, Ingham, Irving of New Nork, Kinsey, Kirtland, Lawyer, Livermore, W. Maclay, W. P. Maclay, Merrill, Morton, Murray, Ogle, Orr, Parrott, Pawling, Pitkin, Rice, Rich, Richards, Savage, Scudder, Sergeant, Seybert, Shaw, Sherwood, Silsbee, Spangler, Strong, Tallmadge, Tarr, Taylor, Terry, Townsend, Upham, Wallace, Wendover, Whiteside, Whitman, Williams of Connecticut, Williams of New York, Wilkin, and Wilson of Pennsylvania.

Ordered, That the title be, "An act to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory."

The House adjourned to Monday.

MONDAY, February 2.

General St. Clair.

The House then, by a small majority, resolved itself into a Committee of the Whole on the bill for the relief of General Arthur St. Clair.

This bill gave rise to a discussion which occupied the committee until sunset, in the course of which the motives of the act of 1810, for the relief of General St. Clair, the act of limitations, the merits of the petitioner, the justice of his claim, &c., were all brought into view, as well as the propriety of various amendments offered to the bill.

Mr. ERVIN, of South Carolina, spoke as follows:—At the commencement of this debate, I had no idea of intruding any observations of mine upon the attention of this committee; but, in justice to my feelings, I cannot now be silent. The integrity of the petitioner has been questioned, and his account denounced as incorrect. It is a case, now, not so much of calculation, as of feeling, and I address you with mingled sensations of pity and regret; pity, for the character of this venerable Revolutionary officer, and regret, that his claim should have met, in this House, with a solitary opponent. I, therefore, rise, not merely to defend the correctness of his claim, but to endeavor to shield from the tarnish of dishonor that fame which is no longer his, but the inheritance of his country. Send not, I beseech you, his claim to the Treasury Department. Many of the vouchers, which might have tended to evidence their correctness, may have been lost through the lapse of years, or the casualties of war. Again, sir, his demand is for the interest of eighteen hundred dollars. In the Treasury Department they allow no interest. To send it there, then, is tantamount to a rejection. But in this House, which is, or ought to be, the fountain of general justice, the principle to pay interest has been adopted, and precedents are already established. Here, then, let us decide upon their correctness or incorrectness. But, I am told, adopt the amendment proposed by an honorable member from Georgia, and my objections will be removed—that the proposed amendment gives to the head of the Treasury Department equitable powers. Specify and define those powers, that I may judge of their propriety; for, if the powers thereby intended to be given are calculated to arm the head of that Department with discretionary powers, to admit or reject the claim, as to him may appear right and proper, without being governed by the rules of office or regulations of law, I am in duty bound to oppose it. Not, sir, that I doubt the talent or integrity of the officer who presides over, and confers honor upon that department, but, because powers of that description, in a free Government, ought never to be resorted to, unless in cases of imperative necessity.

I now call your attention to General St. Clair's claim:—It is for the interest of eighteen hundred dollars, which, he alleges, he advanced, during the Revolutionary war, to Major Butler for the United States, and which sum was expended for their benefit, and produces to you the receipt given to him by Major Butler for that sum. Duly to appreciate the value of this loan, it is only necessary to advert to the time when it was made. It was at the dawn of our Revolution, when the liberties of our country were struggling into existence. At this interesting moment, he early and generously stepped forward in their defence against the unrivalled power, whose legions had humbled Spain and France, and whose flag waved in proud triumph round the universe. Under these appalling circumstances, his country sought him beyond the mountains, and demanded his services—he left the endearment of his family, and the security of private life, to encounter, for this very country, whose Government now repels his claim, the dangers and destruction of war. It is, however, contended, by the honorable the Speaker, that this receipt admits of two constructions. I admit the fact: but will we consult the dignity, or even the interest of our country, by adopting a construction, which, whilst it debases the individual, degrades the country? But I contend that the construction given to the receipt, by the honorable the Speaker, is contrary to every rule of construction with which I am acquainted. He contends, with zeal and much eloquence, that the money which was advanced, and from which the receipt was given, may have been public money which had been placed in his hands by the then Government. Where is the evidence to prove that fact? It is very material; if such evidence does exist, the House is entitled to it; and if none is produced, we are at liberty to presume that none exists. Again, sir, every circumstance, connected with this interesting distressed Revolutionary soldier, repels such an idea. He fought with Amherst in the West, and conquered with Wolfe on the plains of Abraham; at Ticonderoga he merited, if he did not obtain, victory; he rose superior to the weakness of humanity, and yielded himself a sacrifice to his integrity: he there could

have reaped bloody honors, and, perhaps, deathless renown, by the destruction of a gallant army, which afterwards contributed to the triumph at Saratoga; the adoption of his advice saved your army at Trenton; he was one of your Major Generals during the Revolutionary war; he presided over the former deliberations of your Congress; he was a friend of WASHINGTON, and shared the confidence of that great man to the day of his death. And can it be possible, that a man thus elevated, by those circumstances which usually tend to ennoble human character, can submit to the degradation of presenting to the Government of his country a false account for the pitiful sum of four or five thousand dollars, and he trembling on the brink of the grave? The idea is too debasing, it is ungenerous—it ought not to be entertained for a moment. Seven long years he has literally begged at your doors; committees after committees have said his accounts ought to be paid. If you think otherwise, reject them; but why will you debase him—why will you add insult to injury? Recollect his services, and O! let his gray hairs pass in peace to the grave! But again, I have always been taught to believe, that it is a correct rule of construction, when an instrument of writing is presented to you, susceptible of two constructions, you are bound to permit that construction to prevail which will operate most strongly against the obligor, and most in favor of the payee or obligee. Apply this rule of construction to the case now before you, and further comment is unnecessary, the conclusion is irresistible.

The opponents of the claim tell us, if it is rejected, they will join and vote him so many hundred dollars a year. Mr. Chairman, I have no idea of introducing under the garb of public sympathy, a pensioned corps, other than that already established, composed of unfortunate individuals disabled in the military or naval service of my country. Let us first be just, and, with the public money, generous only in case of necessity.

The acts of limitation have been appealed to as barring the claim of the petitioner. Sir, let them bar, and prevent fraud and injustice, but not right, nor the claims of Revolutionary merit in distress. Let them prevail in the departments of the Government; enforce them, if you please, in the courts of law, but in this temple of justice they are inoperative—they vanish before legislative discretion. An honorable gentleman from Pennsylvania, (Mr. HOPKINSON,) whom I have always listened to with pleasure and edification, has anticipated me in one idea in relation to the act of limitation. He has very properly remarked, that your committees have not only acknowledged the correctness of the claim, but recommended its payment, and that the House, acting upon that recommendation, have not only sanctioned their reports, but have paid the principal of the claim, which, in legal contemplation, takes the claim out of the act of limitation. It does more; it not only takes it out of the act of limitation, but proves one of two things, either that the claim is correct, and that the interest ought to be paid, or that the committees who recommended payment, and the Congress which paid, paid an illegal and improper account. But I contend, and hope I shall be able to prove to the satisfaction of this committee, that this claim has never been embraced by your acts of limitation. Acts of limitation commence their operation, not from the time of making a contract, or the time of its execution, but from the day assigned for payment; for example, a note dated 1st of January, 1817, payable the 1st of January, 1818, when will an act of limitation commence its operation? Every mind anticipates the answer —from the day of payment; this principle being established, let us inquire into the nature of General St. Clair's claim: it is of the nature of a debt payable on demand, which excludes the idea of any particular day of payment; in such cases a discretionary power is left with the payee or obligee to make the demand, which is evidenced by proof of a formal demand, or, what is the more usual way, by the entry of mesne process in the hands of the sheriff; in either way the act begins to run only from the time of the demand. General St. Clair's claim, if I am correctly informed, was presented in 1810, and has been preferred from that time to the present; your acts of limitation therefore cannot affect it. The correctness of the claim being established, as his advocate in my official capacity, I demand for him the payment. And how is he paid? Injustice still presents these acts of limitation—as a payment for what? The claim? Yea, more; for sleepless days and nights; for services the most eminent, rendered at a time which emphatically tried men's souls; when patriotism was denounced as treason, and defeat was slavery or death. Mr. Chairman, if the claim is doubtful, and if I shall stand here alone, I shall vote to relieve the distresses of the Revolutionary soldier. Lamented ingratitude! Thus have your soldiers been paid; they who fought for your liberties and independence. After the Revolutionary war, they looked up to their Government for justice; wounded and disabled they performed an annual pilgrimage to your House; year after year, they petitioned for their wages; at last, tired with their complaints, acts of limitation were passed; just or unjust, their claims were forever barred. Hope, the last consolation of the miserable, being thus cut off, numbers retired beyond the mountains and pined out a miserable existence. This session, the glorious few whom death had not relieved, driven by want, once more approached you; they dropped the tone of remonstrance; they assumed the accents of humanity and distress, and begged for bread; you felt the appeal, and, with a promptitude honorable to yourselves and grateful to the people, you voted a partial relief. O! that they had been made partakers of the thousands that are expended in which the heart would have united with the judgment

in approving the expenditure. Mr. Chairman, we have listened to the prayers of the subaltern, let us not discard the claim of the chieftain; pay him his account; fill his heart with gratitude; send comfort to the humble mansion which now shelters him from the rude storm of the mountain; he will thank you, and in his last moments will give to his country all that he has to give—his blessing.

A motion, made by Mr. FORSYTH, to amend the bill by directing the accounting officers of the Treasury to adjust the claim of General St. Clair, and allow him the principal and interest of whatever amount may appear to be due, any law to the contrary notwithstanding, was under consideration, when the committee rose, and obtained leave to sit again.

TUESDAY, February 3.

Another member, to wit, from Massachusetts, ELIJAH H. MILLS, appeared, produced his credentials, and took his seat.

FRIDAY, February 6.

Case of George Mumford.

Mr. TAYLOR, from the Committee of Elections, made a report, accompanied by sundry documents, amongst which is a letter from Mr. Mumford to the committee on the case of George Mumford, a member of this House from North Carolina, whose right to a seat has been questioned, because he had not, previously to attending the House, resigned the office of Principal Assessor in his district. The report concludes, on the ground that the duties and compensation of the office (and of course the office itself) had expired, that George Mumford is entitled to a seat in the House.

The report was read, and committed. It is as follows:

The Committee of Elections, to which was referred a resolution of the House of Representatives of the 10th of December, 1817, and a Message of the President of the United States, of the 29th of the same month, report:

That in the year 1813, subsequent to the passage of the act for the assessment and collection of direct taxes and internal duties, George Mumford was appointed principal assessor of the tenth collection district of North Carolina; that he accepted the said office, and executed the duties appertaining thereto, under the several acts afterwards passed, laying direct taxes upon the United States; and that he has not resigned the said office.

In the month of August, 1817, he was elected a Representative of the said State; and on the first day of the present session he was qualified, and took his seat in this House.

The act of July 22, 1813, under which Mr. Mumford held his appointment, was prospective and without limitation. No law then existed laying a direct tax. But as Congress intended resorting to that system of revenue, it was enacted "that, for the purpose of assessing and collecting direct taxes," the United States should be divided into collection districts, and a principal assessor appointed to each district. If this act has neither expired nor been repealed, Mr. Mumford is still in office, and cannot rightfully be a member of this House. But, by the second section of the act, to provide additional revenues for defraying the expenses of the Government, and maintaining the public credit, by laying a direct tax upon the United States, and to provide for assessing and collecting the same, approved January 9, 1815, the said act was repealed, except so far as the same respected collection districts, internal duties, and the appointment and qualification of collectors and assessors; in all which respects it was enacted that the said act should be, and continue in force for the purposes of the last-mentioned act. The act of 22d July, 1813, so far as the same was not repealed, was thereby limited to the duration of that act, and was continued in force only for its purposes. By that act a direct tax of six millions of dollars was annually laid upon the United States, and apportioned agreeably to the provisions of the constitution. At the first session of the Fourteenth Congress that act was modified, by repealing so much thereof as laid an annual tax of six millions, by reducing the same to three millions, and by limiting its continuance to one year; and it was expressly enacted that all the provisions of the act of January 9, 1815, except so far as the same had been varied by subsequent acts, and except the first section thereof, (which related to the apportionment of the tax,) should be held to apply to the tax of three millions thereby laid. Thus the act of July, 1813, was again limited, and continued in force for the purpose of the three million tax, laid March 5, 1816. Whenever those purposes were fulfilled, that act expired, and of course all offices created by it ceased to exist.

By the letter of the Secretary of the Treasury, hereto annexed, enclosing a report of the Commissioner of the Revenue, it appears that the entire tax assessed in the tenth collection district of North Carolina, was accounted for previous to the 1st of December, 1817, and that no official duty then remained to be performed by Mr. Mumford, the principal assessor of that district. His said office, therefore, expired previous to his taking a seat in this House. The committee, therefore, respectfully submit the following resolution:

Resolved, That George Mumford is entitled to a seat in this House.

MONDAY, February 9.

Another member, to wit, from the State of South Carolina, ELDRED SIMKINS, appeared, produced his credentials, was qualified, and took his seat.

MONDAY, February 23.

Death of Mr. Goodwyn.

After the usual form of reading the journal of the preceding day's sitting, Mr. NEWTON, of Virginia, rose to announce to the House the death of his colleague, Colonel PETERSON GOODWYN.

On me (said Mr. NEWTON) devolves the melancholy duty of informing the House of the death of our late worthy associate, Mr. PETERSON GOODWYN, of Virginia. Mr. Goodwyn died at his seat in Virginia on the 21st of this

month. He has performed and finished his duties here, and with a clear conscience, and in the full expectation of the reward of his virtues, he has gone for a time to repose with his ancestors in the tomb. In amiableness of disposition, in suavity of manners, in acts of benevolence and charity, in steadiness of friendship, and in love and devotion to the republican institutions of his country, he was surpassed by no man.

Mr. NEWTON offered the following resolution, which was unanimously agreed to:

Resolved, That the members of this House will testify their respect for the memory of PETERSON GOODWYN, deceased, late a member of this body from the State of Virginia, by wearing crape on the left arm for one month.

Mr. NEWTON then submitted the following resolution, which was also unanimously agreed to:

Resolved, That a message be sent to the Senate, informing them that this House, in testimony of their respect for the late Colonel PETERSON GOODWYN, one of their body from the State of Virginia, have unanimously resolved to wear crape on the left arm for one month.

And then, on motion of Mr. FORSYTH, the House adjourned.

WEDNESDAY, February 25.

Bankrupt Bill.

The House proceeded to the consideration of the Bankrupt bill.

The question being on Mr. EDWARDS's motion, to discharge the Committee of the whole House from the further consideration of the bill, and to postpone it indefinitely.

The House having refused to agree to a motion for adjournment, the question on the motion to postpone the bill indefinitely was taken by yeas and nays—yeas 82, nays 70.

So the House determined that the bill be *indefinitely postponed*, that is, rejected.

SATURDAY, February 28.

The Expatriation Bill.

The House being thin, a motion was made to adjourn; which was lost—ayes 41, noes 67—and the House then again resolved itself into a Committee of the Whole on the Expatriation bill.

The question under consideration being the motion to strike out the first section of the bill, which was as follows:

Be it enacted, &c., That, whensoever any citizen of the United States shall, by a declaration in writing, made and executed in the district court of the United States, within the State where he resides, in open court, to be by said court entered of record, declare that he relinquishes the character of a citizen, and shall depart out of the United States, such person shall, from the time of his departure, be considered as having exercised his right of expatriation, and shall thenceforth be considered no citizen:

The debate on the bill, and on topics incidentally introduced by some of the speakers, occupied the remainder of the day. Messrs. COBB, MCLANE, FORSYTH, CLAY, JOHNSON of Virginia, and ROBERTSON of Louisiana, engaged in the discussion.

Mr. MCLANE, of Delaware, said, that after the observations which had been made by the other gentlemen who had preceded him in debate, he would not have intruded himself upon the time of the committee, but for the purpose of submitting some views of the subject which did not appear to him to have been yet given, and particularly in relation to our treaty with Spain, which had been rendered important in this discussion. He would therefore ask the indulgence of the committee for a few minutes, while he urged those reasons which would induce him to oppose the bill, and support the motion to strike out the first section. He was aware that this was a very favorite bill with the honorable mover, who, no doubt, anticipated much good from a law of the kind proposed. But, sir, said Mr. MCL., if I can succeed in convincing that honorable gentleman that Congress have not the constitutional power to pass such a law, and that, if they had, it would be inadequate to one very principal object anticipated from it, he will, it is to be presumed, not feel very anxious about its fate.

Mr. MCL. said he would not, upon the present occasion, either affirm or deny the right of a citizen to expatriate himself, because he did not conceive it to be necessary to the argument of the particular subject before the committee. He would content himself with inviting the attention of gentlemen generally to the origin and principles of the right, as it had been assumed, and upon which alone it could exist. This, he said, would be absolutely necessary, in order to ascertain the power by which the exercise of the right could either be controlled or regulated.

The right of expatriation, if it exist at all, is a civil right, commensurate with civil society and civil institutions. In a state of nature such a right could not be known, because, in such a state, the relation of citizen and country did not exist. Then the inhabitants of the State were not restricted to any particular spot, or subjected to the control of any community; the wide world was before them, and they were at liberty to roam wheresoever they pleased, and select the place best calculated to supply their wants and comforts, and to change it again whensoever they should think proper, either from interest or caprice. It was not until they united themselves into societies and communities, in which their own self-government was merged in civil institutions, that any restraint would be imposed upon this general freedom. In giving up the liberties of a state of nature, and entering into civil society, they necessarily contracted certain mutual obligations, by which the exercise of their natural rights would be regulated. The individual contracted obligations to his com-

munity or country, and the community to him, upon which the safety of all materially depended, and which neither could disregard without jeopardizing that safety. He admitted that the happiness of the individual and the community constitute the objects of the association.

It is only necessary, therefore, said he, for the present argument, for me to insist, and to ask gentlemen to concede, what I apprehend will not be denied, that the exercise of this right must be consistent with these obligations: that a citizen should not abandon his country without good cause, or in the necessary and lawful pursuit of happiness; that he cannot divest himself of his duties to his country in the hour of her peril, nor sacrifice all his obligations to her imminent injury and ruin, and therefore that the exercise of the right should be regulated by rules resulting from the nature and force of civil obligations. The bill now before the committee would seem to imply the recognition of these principles. It proposes to make the Government a party to the act, dissolving the tie between the citizen and his country, and to prescribe the terms upon which it will consent to the dissolution. Such a right cannot be a barren one. The power to prescribe rules upon any subject necessarily implies the power of judging of the propriety and extent of the rules.

If, then, Mr. Chairman, said Mr. McL., the exercise of the right of expatriation should be consistent with the essential and fundamental principles of civil obligations, and if any regulation of its exercise is to emanate from the civil power, it should proceed from that power to whom the obligation is due; from the supreme or sovereign power of the state or community of which the citizen is a member, and to whom he owes his allegiance. It is to such a power alone that these obligations have any relation. The question then presents itself, Is the Government of the United States such a power, and can Congress exercise it? I apprehend not.

The powers of the General Government are not absolute, but limited; they are confined to certain specified, enumerated objects, raised for especial purposes. The supreme sovereign power is in the people of the United States, acting through the different State governments. Prior to the organization of the Federal Government, the sovereignty of the States was absolute and complete, and the natural and civil allegiance of the citizen was exclusively due to the particular State of which he was a member. By that State alone could the right of expatriation have been regulated.

In its organization, the General Government was Federal, and not National, and, in the extent of its powers, it is Federal and not National; and the natural allegiance of the citizen to his State is neither absolved nor infringed by his connection with the Government of the United States. He simply contracts certain duties to the General Government, in no degree inconsistent with his allegiance to the State sovereignty. This is perfectly clear, from the nature of the Government. It was formed not by the citizens of the United States, but by the citizens of the respective States, acting as members of their several political communities, and designed for the protection of State rights. A civil relation thus created to the General Government, never can be construed to abrogate the natural relation between the citizen and his State; on the contrary, we find that this relation is in full force in all essential points. The right of the State to require of its citizens militia services, and subject them to trials by court-martials; to inflict punishment for the commission of crimes; to regulate the acquisition of property, and the rules and principles of descent, and, in short, to exercise, almost without limit, an authority over the persons and rights of their citizens; but, above all, to regulate and punish treason against the State. The second section of the fourth article of the Constitution of the United States recognized the crime of treason against a State, by providing for the apprehension of the criminal, though I apprehend such a recognition would not be required to render it entirely clear. The capacity to commit treason against the State, results from natural relation between the citizen and its sovereignty, and, though treason may also be committed against the United States, it results more from the express provision of the Constitution, than from any natural relation subsisting between the citizen and the Government. If, therefore, said Mr. McL., a citizen of the United States could be released from his duties to the General Government, he would nevertheless continue a citizen of the State, and his relation to the State government would be even more absolute than it was before. But, sir, as the States have an interest in preserving the obligation of the citizen to the performance of his duty to the United States, it may well be questioned whether the General Government can release him from those duties without the consent of the State. So long as a citizen remains a citizen of a State, a State has a right to require the power of the General Government in aid of his protection, and it cannot withhold it. This is of the very essence of the compact between the States and the General Government. By this compact, the protection of the rights of persons and property is fairly stipulated, and it cannot be dispensed with, in regard to one, without the consent of all. This compact constitutes the citizens of the State citizens of the United States. The relation to the State government was the basis of the relation to the General Government, and therefore, as long as a man continues a citizen of a State, he must be considered a citizen of the United States. I affirm that the Government of the United States cannot withhold its protection from, or dispense with its duties to any man, while he remains a citizen of any individual State, and that any act of the General Government, absolving him from such duties, would be inoperative.

It then becomes an important question, which this committee must decide, whether Congress can destroy the relation of citizenship between a citizen and a State?

The only powers possessed by Congress are those enumerated in the constitution, or such as are incidental to the execution of those enumerated. It will not be contended that the power in question is expressly given; it is nowhere to be found in the constitution; and, as was well remarked by the honorable gentleman from Kentucky, (Mr. ANDERSON,) it is not necessary to the execution of any express power. I cannot discern any reference which it has to either the powers or objects of the Government.

The fundamental object of the General Government being shown to be the protection of the States in their sovereign rights, the measure now proposed would appear to be opposed to the object, since it tends to sever the ties by which the State communities are held together, and puts the citizen beyond the protection of both the State and the General Government. Such a power, carried to an extent easily conceivable, might interfere, materially, with State rights, and drain the States of their population, against their evident policy, and contrary, perhaps, to their express laws. Sir, I do not know whether such a law as is now contemplated, does not go the whole of this extent; it annihilates the authority of the State over the citizen, without its interposition, at the mere will and pleasure of the individual. It cannot, reasonably, be imagined that the States ever designed to surrender this portion of their sovereignty; it strikes immediately at the root of their existence, and does not in any degree conduce to the objects of the Union.

There is no instance in which the General Government possesses any control over the personal rights of the citizen, in his relation to the individual State. Such is always exclusively the object of State jurisdiction. The instances in which it can exercise a power over the persons of individuals, at all, are few, are confined to their relations to the Federal Government, and expressly defined in the constitution. But the power of regulating expatriation, implies indefinite supremacy over the personal rights and effects of the individual, in all their relations.

Each State in the Union is a distinct, independent sovereignty, and without some provision to the contrary, a citizen of one would be a foreigner in another, liable to all the disabilities of that situation. It was essential, however, for the great purposes of the Union, that such an inconvenience should be guarded against, and it was therefore declared, that "the citizens of each State should be entitled to all privileges and immunities of citizens in the several States." It was this provision that dictated the necessity of vesting in Congress the power "to establish a uniform rule of naturalization," lest the interests of one State might be jeopardized by an improvident admission of citizens into another. But, even this power of naturalization would not have been possessed, unless it had been expressly delegated. There is, perhaps, nothing more necessary and natural to a sovereign State, than the power of admitting foreigners to the rights of citizenship. It was therefore inherent in State sovereignty, and surrendered for the reason mentioned. But the power of divesting the right of citizenship, and of regulating the exercise of the right of expatriation, is one of a very different character, productive of different and important consequences, equally an attribute of sovereign power, but in no degree connected with the power of naturalization, and therefore cannot be supposed to have been surrendered at the same time. I conclude, therefore, said Mr. McL., that Congress, having no power to destroy the relation between a citizen and his State, cannot, constitutionally, pass any law that could denaturalize him from the United States.

Mr. JOHNSON, of Virginia, said he felt humiliated by the debate which had taken place on the subject now under deliberation. To hear the old feudal doctrine of perpetual allegiance advocated on this floor, said Mr. J., as it has been by the gentleman from Delaware, (Mr. MCLANE;) the doctrine resulting from a system which, from time immemorial, has borne down and oppressed most of the wretched subjects of Europe. A doctrine which was unknown in England, until the reign of William the Conqueror; who, by great art and address, prevailed upon the English people to adopt the feudal system, from which the doctrine of perpetual allegiance sprang.

I had not expected at this period of peace, tranquillity, and prosperity, when it is said that no distinction of party exists, when all are pretending to crowd into the Republican fold, to hear the fundamental principles on which this Government rests for its support, questioned, much less denied to exist. Although no person has had the hardihood to deny the right of the citizen to expatriate himself, yet arguments are used, which, if they be correct, go conclusively to prove that the citizen cannot and ought not to enjoy the means essential to the exercise of this right. The gentleman from Delaware (Mr. MCLANE) contends that allegiance is a contract between the citizen and the sovereign power of the country, which cannot be cancelled without the consent of both the contracting parties. He then charges the honorable gentleman from Louisiana (Mr. ROBERTSON) with introducing the bill on your table, in order to aid the patriots of South America. I well recollect the introduction of a similar proposition, by the gentleman from Louisiana, during the Thirteenth Congress, and the effect at that time produced on the Federal gentlemen of the House. Our attention is invited by the gentleman from Delaware (Mr. MCLANE) to the deplorable situation of the country during the late war. The difficulties we had to encounter in raising an

army are described in glowing terms. Our being driven almost to the adoption of a system of conscription is artfully introduced. And we are gravely admonished by the gentleman that if we pass the present bill—in the event of another war, another period of difficulty—to avoid fighting the battles of their country, of asserting its honor, defending its liberty and independence, our citizens will avail themselves of its provisions, and exercise the right of expatriation. Can this be possible, Mr. Chairman? If it be, I hope it is confined to the citizens of the State of Delaware. I am confident that no Virginian would ever abandon his country in the hour of danger, would ever expatriate himself, to avoid fighting her battles, defending her honor, her liberty, and her independence. If, however, there be such an one, I should have no difficulty in fixing his doom; I would furnish him the means of expatriating himself to a region from whence he never should return. Is there any man who would dare to avow such a principle? No, sir. He would shrink from the light like the recreant felon. He would dare not meet the scrutinizing eye of investigation. I hope there is not a square foot of soil within the jurisdictional limits of the United States which nurtures such a miserable and depraved wretch.

What, sir, is the true question for the committee to decide? Do the citizens of the United States possess the right to expatriate themselves? Has Congress the power to legislate competently on the subject? and is it expedient that a complete and perfect act of legislation shall now take place? I answer that the citizens of the United States do possess the right in the most ample, unlimited, and unlimitable degree. If I be asked from whence I derive the right—I point to Heaven. It is in that great charter by which nature secured to man the right to seek happiness wheresoever he could enjoy it. I would disdain to derive the right from any of the little petty sovereignties or Governments on earth. Does it require any act of the Government to enable the citizen to exercise and enjoy this right? I contend not. The moment a citizen changes permanently his residence, and takes the oath of allegiance to the Government of the country in which he has fixed his permanent residence, he has exercised this right. All claims of the Government which he has abjured cease to exist. But the decisions of our courts are cited—a long case has been read, the case of Jonathan Williams, who had regularly expatriated himself from Virginia, and become a citizen of France, and who was tried and punished by one of our Federal courts. The remedy is at hand. It was an act of tyranny and oppression for which the judge ought to have been impeached. As it respects the right, this is a plain question. No man has, no man will dare openly to deny it. The warmest advocates of the feudal system—the warmest friends of English principles and English law will not deny the right. How does the conduct of England agree with the dictates of her jurists? Two years' service in their navy, *ipso facto*, makes an alien, a foreigner, a citizen of England. Can any Government presume to naturalize foreigners and deny the right of expatriation? Such pretence ought to subject a Government to ridicule and scorn.

Mr. COBB, of Georgia, said, the object of the bill under discussion, was not to change any known law, acknowledged to be in force in the United States. Its object was to declare that the principle of perpetual allegiance, known only to the common law of England, so many of the other principles of which are in force, has no binding efficacy upon the people of this country. In reasoning upon such a law, said he, it is indispensably necessary that all terms necessarily used should have a definite and clear meaning attached to them.

By allegiance, as it is explained by the judges of our own courts, and as it is defined by those who have preceded me in debate, we mean, "that tie by which the Government and the citizen are connected;" from which protection is promised, and submission expected; protection being the duty imposed upon the Government, and submission upon the citizen, with their corresponding duties. Expatriation is the dissolution of this tie; it is the act of throwing off the character of citizen—of declaring that protection is no longer expected, and consequently claiming to be freed from the duty of submission. The friends of this bill, of which I am one, say that the citizen can, as a matter of natural right, exercise this act of expatriation whenever he pleases, and that of this right no human laws can deprive him. If I understood the gentleman from Virginia, (Mr. PINDALL,) even he does not deny the power of the citizen to exercise this right, and yet, in the next breath, he attempted to prove that there was no such right; that there is and must be, in every citizen, a principle of gratitude so eternal in its obligations, as that it cannot be discharged. What is this but the English common law upon the subject? The gentleman has used almost the very words of Sir William Blackstone. He ought also to have adopted the reasons of the same writer, and have traced this gratitude to the principles of universal law, preached by himself only, and which no other can understand. To me this principle of universal law is so utterly incomprehensible, that I have heard of but one thing more supremely ridiculous, and that is, the "immaculate purity of the Spanish monarchy," about which we have learned something from the pen of the Spanish Minister, during the present session. Such a principle of universal law is a twin brother of this immaculacy, and no head but such as could comprehend the latter, is able to understand the former. It was to be hoped that doctrines like these were out of fashion; but, like Judge Ellsworth, the honorable gentleman from Virginia cannot dispense with the common law, or rather that part of it which

does not and ought not to prevail in this country, for the best of reasons, that it is not founded in common sense.

I would not be understood as denouncing the common law; on the contrary, in its genuine principles I find a safe and sure guarantee of the best rights of the citizen.

But even in England the absurdity of the doctrine of perpetual allegiance is obvious, because of its inconsistency with other principles equally admitted, and founded in better reasons. England also maintains the doctrine of naturalization. What is naturalization but the act of conferring upon a foreigner all the rights of a citizen, by the acquisition of which he, at the same moment, imposes upon himself all the duties of a citizen? Can there be such a thing as the naturalized citizen of two States? Can all the duties of the citizen be claimed by two States, each having a just right? Certainly not. For the act by which all the rights of citizen are acquired, and all the duties are imposed, necessarily pre-supposes that all connection between the individual and any other State, is dissolved. Wherever naturalization, then, is permitted, the right of expatriation is admitted; and all measures which have a tendency to curtail this right, is tyranny. The creatures of kings, and the slaves of despots, may venture to assert a contrary doctrine, but it ought never to come from the mouths of freemen.

The question was at length taken on striking out the first section of the bill, and decided in the affirmative, by a small majority.

The committee rose, and reported to the House this decision; and, after refusing to adjourn, or to lay the bill on the table, the question was taken on concurring with the committee in striking out the first section of the bill, (considered equivalent to rejection,) and was decided in the affirmative—yeas 70, nays 58, as follows:

YEAS.—Messrs. Abbott, Adams, Allen of Vermont, Baldwin, Ball, Barbour of Virginia, Bayley, Beecher, Blount, Boss, Campbell, Clagett, Colston, Cruger, Cushman, Darlington, Drake, Earle, Edwards, Ellicott, Ervin of South Carolina, Folger, Hall of Delaware, Hasbrouck, Herbert, Hitchcock, Hogg, Holmes of Connecticut, Huntington, Lawyer, Livermore, Lowndes, McLane, W. P. Maclay, Marr, Mason of Rhode Island, Merrill, Middleton, Mills, Moore, Morton, Mumford, J. Nelson, H. Nelson, Ogden, Ogle, Orr, Parrott, Pindall, Pleasants, Porter, Reed, Rice, Richards, Ruggles, Scudder, Sergeant, Sherwood, Slocumb, A. Smyth, Stuart of Maryland, Tallmadge, Taylor, Trimble, Wendover, Whitman, Williams of Connecticut, Williams of New York, Wilkin, and Wilson of Massachusetts.

NAYS.—Messrs. Barber of Ohio, Bassett, Bateman, Bellinger, Bennett, Boden, Butler, Cobb, Comstock, Crafts, Desha, Forsyth, Fuller, Garnett, Harrison, Hendricks, Herkimer, Herrick, Heister, Holmes of Massachusetts, Hunter, Irving of New York, Johnson of Virginia, Jones, Kinsey, W. Maclay, McCoy, Murray, T. M. Nelson, Nesbitt, Newton, Patterson, Quarles, Rhea, Rich, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Sampson, Savage, Sawyer, Seybert, Shaw, Silsbee, B. Smith, Southard, Speed, Spencer, Stewart of North Carolina, Strother, Tarr, Terrill, Tompkins, Tucker of South Carolina, Tyler, Walker of Kentucky, Whiteside, and Wilson of Pennsylvania.

The remaining sections of any bill, after the first is stricken out, have usually been disposed of by a motion of course; but, on this occasion, the procedure was objected to by Mr. JOHNSON, of Virginia, and by Mr. ROBERTSON, on the ground that the bill was yet capable of amendment, and might be put into a declaratory shape, or amended in some way to recognize the right (acknowledged by all, but controverted by certain judicial decisions) of expatriation. To whom Mr. LOWNDES replied, that the proceeding now proposed was unparliamentary, and would tend to the utter confusion of the proceedings of the House, if sanctioned; since there would be no end to any question, if it could be debated, and solemnly decided, and then again debated and decided.

Before settling this mooted point of order, a motion to adjourn finally prevailed, after being once or twice refused.

TUESDAY, March 3.

Monument to the Baron de Kalb.

Mr. REED submitted the following preamble and resolution:

Whereas a resolution was passed by the Congress of the United States, on the 14th day of October, 1780, in the following words, to wit:

Resolved, That a monument be erected to the memory of the late Major General the Baron de Kalb, in the city of Annapolis, in the State of Maryland, with the following inscription:

"Sacred to the Memory of THE BARON DE KALB, Knight of the Royal Order of Military Merit, Brigadier of the Armies of France, and Major General in the service of the United States of America. Having served with honor and reputation for three years, he gave a last and glorious proof of his attachment to the liberties of mankind and the cause of America, in the action near Camden, in the State of South Carolina, on the 16th of August, 1780, when leading on the troops of the Maryland and Delaware lines against superior numbers, and animating by his example to deeds of valor, he was pierced with many wounds, and on the 19th following expired, in the forty-eighth year of his age. The Congress of the United States of America, in gratitude to his zeal, services, and merit, have erected this monument."

Resolved, therefore, That the aforegoing resolution be referred to a select committee, with instruction to report a bill to carry the same into effect.

The question was taken, "Will the House *now* consider the said resolution?" and determined in the negative.

Duty on Salt.

Mr. LOWNDES, from the Committee of Ways and Means, who were instructed to inquire into the expediency of repealing the duty on salt, made a report against repealing the duty; which

was read, and referred to a Committee of the Whole. The report is as follows:

That the letter from the Secretary of the Treasury, with the statement which accompanies it, which they report to the House, explains the principal objections to the repeal of the duty in question, which have induced the committee to concur in the opinion of the Secretary.

TREASURY DEPARTMENT, *Jan.* 5, 1818.

SIR: In reply to your letter of the 12th ultimo, enclosing a resolution of the House of Representatives, instructing the Committee of Ways and Means "to inquire into the expediency of repealing the law laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries;" requesting any information or opinion which I may think proper to communicate, and particularly an estimate of the revenue which has accrued from the salt duty in the years 1816 and 1817, I have the honor to submit a statement of the revenue accruing from that duty during the years 1815, 1816, and the first two quarters of 1817, and of the amount paid upon the exportation of pickled fish, as well as of the allowances to vessels employed in the fisheries.

Deducting the bounty and allowances from the gross amount of duty, and apportioning the remainder between the two years and a half, the period within which it has accrued, the annual average revenue arising from that duty is estimated at $810,016. But as the war prevented importations to any considerable extent during the first quarter of the year 1815, if that quarter should be omitted in the estimate, the annual revenue arising from the duty on salt during the period embraced by the statement would exceed $900,000. By comparing the revenue of the first two quarters of the year 1817 with that which accrued in the year 1816, it appears that there has been a considerable diminution during the latter period; it may, therefore, be unsafe to estimate it above $800,000 a year.

The revenue in the annual report of the Treasury has been estimated for the year 1818 at $24,525,000, including the internal duties, which have been since repealed. The revenue for that and for the next two years may be estimated at $22,025,000. The expenditures for the same year have been estimated at $21,946,351 74, which being deducted from the estimated revenue, there would remain a surplus of revenue, beyond the expenditure at present authorized by law, of $78,648 26.

It therefore appears that, if the salt tax shall be repealed, there will be a deficit in the revenue of more than $700,000 annually, until the proceeds of the lands in the State of Mississippi and in the Alabama Territory shall be applicable to the current expenses of the Government. During this interval the deficit will have to be supplied by the balance estimated to be in the Treasury on the 1st day of January of the present year.

As it is uncertain what appropriations may be made during the present session of Congress, beyond those authorized by existing laws, and upon which the estimates of expenditure for the year 1818 are founded, it is impossible to determine whether the balance in the Treasury will be equal to the supply of the deficiency which the repeal of the duty upon salt will create. It may be proper also to observe, that, after paying the interest of the public debt, and reimbursing the old six per cent. and deferred stock, according to the principles of the funding system, the appropriation of ten millions of dollars, constituting the sinking fund, will be unequal to the discharge of the Louisiana debt during the years 1818 and 1819. The deficiency was intended to be supplied from the balance remaining in the Treasury, under the provisions of the act of the last session of Congress, providing for the redemption of the public debt. A reduction of the balance in the Treasury, so as to prevent its application to this object, ought to be carefully guarded against.

I have the honor to be, your most obedient and very humble servant,

WM. H. CRAWFORD.

Hon. WILLIAM LOWNDES,
Chairman of the Com. of Ways and Means.

Statement showing the amount of duty which accrued on salt imported during the years 1815 *and* 1816, *and from the 1st of January to the 30th June*, 1817, *together with the amount paid for bounty on pickled fish exported, and for allowances to vessels employed in the fisheries during the same period.*

	Duty on Salt.
From 1st Jan. to 31st December, 1815,	$855,448 40
From 1st Jan. to 31st December, 1816,	1,100,745 70
From 1st January to 30th June, 1817,	232,183 74
	Bounty.
From 1st Jan. to 31st December, 1815,	
From 1st Jan. to 31st December, 1816,	$586 80
From 1st January to 30th June, 1817,	1,836 20
	Allowances.
From 1st Jan. to 31st December, 1815,	$1,811 74
From 1st Jan. to 31st December, 1816,	84,736 26
From 1st January to 30th June, 1817,	76,786 43

TREASURY DEPARTMENT,
Register's Office, December 18, 1817.
JOSEPH NOURSE, *Register.*

FRIDAY, March 6.

Mr. BUTLER presented a petition of John Stark, a Major General in the Revolutionary Army, representing his necessitous circumstances, and praying that the bounty of the National Government may be extended to him in the decline of his days, in consideration of his faithful services in the defence of his country: which was referred to a select committee; and Messrs. BUTLER, RICH, ANDERSON of Kentucky, MERCER, LIVERMORE, HOPKINSON, and MILLS, were appointed the committee.

SATURDAY, March 14.

Internal Improvement.

The House having resumed the consideration of the report of the Committee of the Whole, on the report of a Committee on the subject of Roads and Canals; and the question being on agreeing to the first resolution reported by said committee, in the following words:

1. *Resolved*, That Congress has power, under the constitution, to appropriate money for the construction of post roads, military, *and other* roads, and of canals, and for the improvement of water-courses.

Mr. JOHNSON, of Kentucky, said he had never voted for any proposition since he had enjoyed

the honor of a seat in this House, which he did not believe to be sanctioned by the express letter of the constitution; nor should he on the present occasion. After expressing the satisfaction which he had received from this debate, than which he had never listened to any with greater pleasure, Mr. J. proceeded to say, that, as he bottomed his opinion on this question on the express letter of the constitution, he should derive no aid in support of his vote by implication. He claimed for Congress no grant of power under that clause of the constitution which speaks of the common defence and general welfare; nor did he stand here in any other character than as an advocate for State rights; for he was thoroughly convinced that there never was a more vital attack on the integrity of the States, and on State rights, than would be the rejection of the present proposition, unless it were immediately followed by an amendment to the constitution in this respect.

Mr. DESHA moved to amend the said resolution, by striking out the words "*and other*," the effect of which would have been to confine the declaration to post roads and military roads.

After some remarks from Mr. LOWNDES, who desired that the amendment might not prevail, that the House might be allowed to vote on the broad proposition, the motion of Mr. DESHA was negatived.

Mr. MILLS moved to postpone indefinitely the further consideration of the subject, and supported this motion in a speech of half an hour.

Mr. LOWNDES made some observations calculated to show that it was highly important to obtain a decision of this House at the present session; a different course, after the many days consumed in debate, he thought would be unjust to the committee who had made report on the subject, and dissatisfactory in its result.

Messrs. BALDWIN and LIVERMORE also opposed the indefinite postponement.

The motion for indefinite postponement was decided in the negative, by yeas and nays—for the postponement 77, against it 87.

The question was then taken on concurring in the first resolution adopted by the Committee of the Whole, as above stated, and decided as follows—yeas 90, nays 75:

YEAS.—Messrs. Abbott, Anderson of Kentucky, Baldwin, Barber of Ohio, Bateman, Bayley, Beecher, Bloomfield, Campbell, Colston, Comstock, Crawford, Cruger, Cushman, Darlington, Ellicott, Ervin of South Carolina, Forsyth, Gage, Hall of Delaware, Harrison, Hasbrouck, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes of Massachusetts, Hopkinson, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Lawyer, Linn, Livermore, Lowndes, McLane, W. P. Maclay, Marchand, Marr, Mercer, Middleton, Moore, Morton, Mumford, Murray, Jeremiah Nelson, Ogden, Ogle, Palmer, Parrott, Patterson, Pawling, Peter, Pindall, Poindexter, Porter, Quarles, Robertson of Kentucky, Robertson of Louisiana, Savage, Schuyler, Sergeant, Seybert, Simkins, Slocumb, S. Smith, Bal. Smith, Southard, Spencer, Stuart of Maryland, Tallmadge, Tarr, Taylor, Terrill, Trimble, Tucker of Virginia, Upham, Wallace, Wendover, Westerlo, Whiteside, Whitman, Wilkin, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS.—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Austin, Ball, Barbour of Virginia, Bassett, Bellinger, Bennett, Blount, Boden, Bryan, Burwell, Butler, Clagett, Cobb, Cook, Crafts, Culberth, Desha, Drake, Earle, Edwards, Folger, Forney, Garnett, Hale, Hall of North Carolina, Hogg, Holmes of Connecticut, Hunter, Huntington, Johnson of Virginia, Kirtland, McCoy, Mason of Massachusetts, Mason of Rhode Island, Merrill, Mills, Mosely, H. Nelson, T. M. Nelson, New, Orr, Owen, Pitkin, Pleasants, Reed, Rhea, Rice, Richards, Ringgold, Ruggles, Sampson, Sawyer, Scudder, Settle, Sherwood, Shaw, Silsbee, Alexander Smyth, J. S. Smith, Speed, Stewart of North Carolina, Strong, Terry, Tompkins, Townsend, Tucker of South Carolina, Taylor, Walker of North Carolina, Williams of Connecticut, Williams of New York, and Williams of North Carolina.

So the first resolution was adopted.

The second resolution having been read in the following words:

2. *Resolved*, That Congress has power, under the constitution, to construct post roads and military roads; provided that private property be not taken for public use, without just compensation.

The question was then taken on agreeing to the second resolution as above stated, and decided as follows—yeas 82, nays 84:

YEAS.—Messrs. Anderson of Kentucky, Baldwin, Barber of Ohio, Bateman, Bayley, Beecher, Bloomfield, Campbell, Colston, Comstock, Crawford, Cruger, Cushman, Darlington, Ellicott, Ervin of South Carolina, Forsyth, Gage, Hall of Delaware, Harrison, Hasbrouck, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Lawyer, Linn, Livermore, Lowndes, McLane, Marchand, Marr, Mercer, Moore, Morton, Mumford, Murray, Ogden, Ogle, Palmer, Parrott, Patterson, Pawling, Peter, Pindall, Porter, Quarles, Rich, Robertson of Kentucky, Robertson of Louisiana, Savage, Schuyler, Sergeant, Seybert, Simpkins, Slocumb, Ballard Smith, Southard, Speed, Spencer, Stuart of Maryland, Tallmadge, Tarr, Taylor, Terrill, Trimble, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS.—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Austin, Ball, Barbour of Virginia, Bassett, Bellinger, Bennett, Blount, Boden, Boss, Bryan, Burwell, Butler, Clagett, Claiborne, Cobb, Cook, Crafts, Culberth, Desha, Drake, Earle, Edwards, Folger, Forney, Garnett, Hale, Hall of North Carolina, Hogg, Holmes of Massachusetts, Holmes of Connecticut, Hunter, Huntington, Johnson of Virginia, W. Maclay, W. P. Maclay, McCoy, Mason of Massachusetts, Mason of Rhode Island, Merrill, Mills, Mosely, Jeremiah Nelson, H. Nelson, T. M. Nelson, New, Orr, Owen, Pitkin, Pleasants, Poindexter, Reed, Rhea, Rice, Richards, Ringgold, Ruggles, Sampson, Sawyer, Scudder, Settle, Shaw, Sherwood, Silsbee, S. Smith, Alexander Smyth, J. S. Smith, Stewart of North Carolina, Strong, Terry, Tompkins, Townsend, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Whitman, Williams of Connecti-

cut, Williams of New York, and Williams of North Carolina.

So the resolution was *not* agreed to.

The third resolution was then read as follows:

3. *Resolved*, That Congress has power, under the constitution, to construct roads and canals necessary for commerce between the States; provided, that private property be not taken for public purposes, without just compensation.

The question was then stated upon concurring with the Committee of the Whole, in that part of their amendment embraced by the fourth resolution, in the following words, viz:

4. *Resolved*, That Congress has power, under the constitution, to construct canals for military purposes: *Provided*, That no private property be taken for any such purpose, without just compensation being made therefor.

The question then recurred on agreeing to the said fourth resolution, and being taken, it was determined in the negative—yeas 81, nays 83.

So the resolution was not agreed to.

The result of the whole proceeding is, that the House have come the following resolution:

"That Congress have power, under the constitution, to appropriate money for the construction of post roads, military and other roads, and of canals, and for the improvement of water-courses."*

Our Relations with Spain.

The following Message was then received from the PRESIDENT OF THE UNITED STATES:

To the Speaker of the House of Representatives:

In compliance with a resolution of the Senate, of the 16th December, and of the House of Representatives, I lay before Congress a report of the Secretary of State, and the papers referred to in it, respecting the negotiation with Spain. To explain fully the nature of the differences between the United States and Spain, and the conduct of the parties, it has been found necessary to go back to an early epoch. The recent correspondence, with the documents accompanying it, will give a full view of the whole subject, and place the conduct of the United States, in every stage, and under every circumstance, for justice, moderation, and a firm adherence to their rights, on that high and honorable ground, which it has invariably sustained.

JAMES MONROE.

WASHINGTON, *March* 14, 1818.

DEPARTMENT OF STATE, *March* 14, 1818.

The Secretary of State, to whom have been referred the resolution of the Senate, of 16th December, and of the House of Representatives of the 24th February last, has the honor of submitting to the President the correspondence between this Department and the Spanish Minister resident here, since he received the last instructions of his Government to renew the negotiations which, at the time of the last communication to Congress, were suspended by the insufficiency of his powers. These documents will show the present state of the relations between the two Governments.

As in the remonstrance by Mr. de Onis, of the 6th of December against the occupation by the United States of Amelia Island, he refers to a previous communication from him, denouncing the expedition of Sir Gregor McGregor against that place, his note of 9th July, being the paper thus referred to, is added to the papers now transmitted. Its date, when compared with that of the occupation of Amelia by McGregor, will show that it was written ten days after that event; and the contents of his note of 6th December, will show that measures had been taken by the competent authorities of the United States to arrest McGregor as soon as the unlawfulness of his proceedings within our jurisdiction had been made known to them by legal evidence, although he was beyond the reach of the process before it could be served upon his person. The tardiness of Mr. Onis's remonstrances is of itself a decisive vindication of the magistrates of the United States against any imputation of neglect to enforce the laws; for, if the Spanish Minister himself had no evidence of the project of McGregor, sufficient to warrant him in addressing a note upon the subject, to this Department, until ten days after it had been accomplished, it cannot be supposed that officers, whose authority to act commenced only at the moment of the actual violation of the law, and who could be justified only by clear and explicit evidence of the facts in proof of such violation, should have been apprised of the necessity of their interposition in time to make it effectual before the person accused had departed from this country.

As, in the recent discussions between Mr. Onis and this Department, there is frequent reference to those of the negotiation at Aranjuez in 1805, the correspondence between the Extraordinary Minister of the United States at that period, and Don Pedro Cevallos, the Minister of Foreign Affairs in Spain, will be also permitted as soon as may be, to be laid before Congress, together with the correspondence between Don Francisco Pizarro and Mr. Erving, immediately preceding the transmission of new instructions to Mr. Onis, and other correspondence of Mr. Onis with

* The vote in this case seems to have turned upon the word "*necessary*," as found at the end of the enumerated powers granted to Congress; and under which word it was held to be constitutional to adopt the measures which were deemed *necessary* to carry into effect these granted powers; —a very unsafe way of deriving powers;—as the opinion of what may be necessary may depend upon the temperament of different members as well as upon judgment, and may vary in the same man at different times; and is, at all times, influenced by existing circumstances. Thus the financial circumstances of the country in the war of 1812 induced the establishment of the second National Bank—under the supposition of necessity: the circumstances of the country in the Mexican war of 1846, were different, and no such bank was thought of. Again: The want of roads during the war of 1812, for the march of troops, and the transportation of supplies, and the general difficulty in carrying the mails, and keeping up commercial intercourse, made these roads be felt as a necessity in war, in commerce, and in the post office: and many roads, under the conviction of these necessities, were then made—not one of which is now so used! all being superseded by the railways, and the electric telegraph—fruits of individual genius and private enterprise. So that the constitutionality of the federal road-making power would be condemned in 1856 upon the same test on which it was established in 1818.

this Department, tending to complete the view of the relations between the two countries.

JOHN QUINCY ADAMS.

MONDAY, March 16.

Mr. MARR presented a petition of the General Assembly of the State of Tennessee, praying that such measures may be adopted, as will enable citizens of that State to take possession of lands purchased by them from the State of North Carolina, and which are now held by the Chickasaw Indians, under a treaty concluded with the United States.—Referred to the committee appointed on the 17th December last, respecting the Indian title to lands within the State of Kentucky.

Mr. ROBERTSON, of Louisiana, presented a petition of Gales & Seaton, stating, that they proposed to publish a *History of Congress*, from the commencement of the Government to the present day, and praying the aid and patronage of Congress in their said publication; which was read, and referred to a select committee; and Mr. ROBERTSON, Mr. TYLER, Mr. HOPKINSON, Mr. HOLMES, of Massachusetts, and Mr. SIMKINS, were apppointed the committee.

Mr. SCOTT presented petitions of sundry inhabitants of the Territory of Missouri, praying that the said Territory may be admitted into the Union, as a State, on an equal footing with the original States; which were, together with the petitions of a similar nature, heretofore presented at the present session, referred to a select committee; and Mr. SCOTT, Mr. ROBERTSON of Kentucky, Mr. POINDEXTER, Mr. HENDRICKS, Mr. LIVERMORE, Mr. MILLS, and Mr. BALDWIN, were appointed the committee.

TUESDAY, March 17.

Neutral Relations.

The House went into Committee of the Whole on the bill in addition to "An act for the punishment of certain crimes against the United States," and to repeal the acts therein mentioned, (to enact into one, with amendments, the several acts heretofore passed to enforce the neutral obligations of the United States.)

Mr. FORSYTH rose in explanation of the views of the Committee of Foreign Relations in proposing this bill, which was the result of the general inquiry into the various existing acts on this subject which had been referred to them, and which it was presumed answered the intentions of the House in directing the inquiry. Mr. F. briefly recapitulated the history of the several laws passed on this subject, from the act of 1794, rendered necessary by the French Revolution, and the want of sufficient power in the Executive to enforce on our own citizens the observance of neutrality, down to the act of the last session; and concluded by explaining the amendment which the committee had deemed necessary to the strict impartiality of the provisions of the bill they had reported.

Mr. ROBERTSON, of Louisiana, after submitting his reasons for disputing the propriety of some of the former acts; for believing that the provisions of the present bill exceeded the obligations imposed on us by a just regard to neutral duties, and went further than the neutral acts of any other nation—moved, first, to strike out the following proviso:

"That if any person so enlisted, shall, within thirty days after such enlistment, voluntarily discover upon oath to some justice of the peace, or other civil magistrate, the person or persons by whom he was so enlisted, so as that he or they may be apprehended or convicted of the said offence, such person so discovering the offender or offenders, shall be indemnified from the penalty prescribed by this act."

This motion was agreed to without a division.

Mr. CLAY offered some general remarks on the offensive nature of the bill, which, he said, instead of an act to enforce neutrality, ought to be entitled, an act for the benefit of His Majesty the King of Spain. He also expressed his unwillingness thus to be called on to re-enact laws already in force, of which he did not wish to have now the labor of investigating their principles, or the responsibility, if wrong, of renovating and participating in' them. Sufficient, he thought, for the day, was the evil thereof; and he was sorry the committee had not contented itself with bringing forward some original proposition, without hunting out and bringing up for re-enaction all the old laws heretofore passed on the subject. There was a great difference between suffering acts to remain unrepealed, and bringing them up for re-enactment, and he gave notice that, after this bill should be made as perfect as its friends could make it, he should submit a single proposition to leave the act of 1794 in force, and to repeal the acts of 1797 and of 1817. Mr. C. concluded by moving to strike out of the second section the words which make it penal for a person to "go beyond the limits or jurisdiction of the United States, with intent to be enlisted or entered," in the service of any foreign Prince or State.

Mr. FORSYTH opposed the motion, and observed, that after the great labor which the committee had undertaken on this subject, at the instance of the Speaker, (Mr. CLAY,) they had some reason to complain of his remarks on the course they had taken. A general inquiry into the subject and revision of the acts had been referred to them, and the committee had found it easier and better to amend and bring into one general bill all the acts, than to adopt any other course. Mr. F. said that, so far from operating unfairly against the cause of the patriots, this bill removed certain provisions of the act of 1797, which bore exclusively on that cause, denouncing the severest penalties against those of our citizens who aid them, which this bill would render equal and impartial. Mr. F. adduced some arguments to show the propriety of retaining the provision moved to be stricken out; but, after some conversation between Mr. CLAY and Mr. FORSYTH, the question was taken,

and Mr. CLAY's motion agreed to without a count.

Mr. ROBERTSON, of Louisiana, objected to the penalties proposed by the bill, as unreasonably severe, and instead of a fine of $10,000, and ten years' imprisonment which the judge might, at his discretion, impose on the offender—moved to substitute $2,000 and three years.

This motion was opposed by Messrs. FORSYTH, SMITH of Maryland, LIVERMORE, and RHEA, and supported by Messrs. ROBERTSON of Louisiana, CLAIBORNE, and BALL.

The question being divided, the motion to reduce the fine was negatived—ayes 40; and the motion to reduce the limit of imprisonment was carried—62 to 60.

Mr. HOLMES, of Massachusetts, moved to amend the section, so as to leave it to the discretion of the judge to inflict both fine and imprisonment, or one only, instead of being obliged, as the bill stood, to impose both, if either.—Negatived—ayes 55.

Mr. HERRICK moved to reduce the fine to $5,000; which was also negatived.

After some other unsuccessful motions of minor importance—

Mr. FORSYTH moved to strike from the third section the provision which makes it penal for any citizen to fit out or arm, without the jurisdiction of the United States, any ship or vessel with intent to commit hostilities upon the citizens or subjects of a friendly State—leaving in this section only the provision against such citizens of the United States as shall, beyond our jurisdiction, fit out vessels to commit hostilities against the citizens of the United States.

This motion produced a good deal of debate, principally on the expediency of striking out the whole section, and on the impropriety of still retaining a feature in the bill which would admit the possibility of a crime so monstrous and improbable, as that of citizens going abroad to commence war upon the citizens and commerce of their own country, and which, even if committed, would be punishable either as treason or piracy.

Messrs. CLAY, ROBERTSON, FORSYTH, SMITH of Maryland, and PITKIN, joined in the discussion; but, before any question was taken, the committee rose, and the House adjourned.

WEDNESDAY, March 18.

The Neutrality Bill.

A motion (made yesterday) to amend the fourth section of the bill, was now agreed to—the effect of which was to confine the provisions of that section to the punishment of any citizens of the United States who should fit out vessels to cruise against the commerce of the United States, leaving out what related to the commerce of foreign nations.

Mr. CLAY rose to propose an amendment he had before indicated. Amended as it had been, Mr. C. said he had no objection to retaining the fourth section; but moved to strike out all the remainder of the bill, except so much as retains the provisions of the act of 1794, and repeals the acts of 1797 and 1817—the simple effect of which amendment would be to repeal the act of 1797 and that of 1817. In the propriety of repealing the act of 1797, he understood the Chairman of Foreign Relations to concur. Of course, then, it would only be necessary to show that the act of the last session ought to be repealed; and that it goes beyond any neutral duty we can owe. In the threshold of this discussion, Mr. C. said, he confessed he did not like much the origin of that act. There had been some disclosures, not in an official form, but in such a shape as to entitle them to credence, that showed that act to have been the result of a *teasing* on the part of foreign agents in this country, which he regretted to have seen. But, from whatever source it sprung, if it was an act necessary to preserve the neutral relations of the country, Mr. C. said it ought to be retained. But this he denied. The act was predicated on the ground that the existing provisions did not reach the case of the war now raging between Spain and the South American provinces. In its provisions it went beyond the obligations of the United States to other powers, and that part of it was unprecedented in any nation, which compelled citizens of the United States to give bonds not to commit acts without the jurisdiction of the United States, which it is the business of foreign nations, and not of this Government, to guard against. Does the act of 1794, said Mr. C., embrace the case of the Spanish patriots? That was the question, and it was not worth while to disguise it. If St. Domingo was not included, as had been said, in the act of 1794, it would not follow that that act did not embrace the case of the Spanish patriots. What was the condition of St. Domingo? Had the Executive of the United States ever acknowledged, in regard to that war, that it was a civil war, respecting which the United States stood in a neutral relation? No such acknowledgment, he said, had ever been made, in respect to the war in that island, as had been expressly made by the Executive in regard to the war in South America, that it was a civil war. And, when the courts came to apply the law to cases before them, having the decision of the Executive to guide them, they must decide that the law of 1794 is applicable to both parties. The act of 1817, consequently, was wholly unnecessary to the object for which it was avowedly enacted, and was one of superfluous legislation. Mr. C. said he recollected with pleasure that he gave his negative to it; that every member from the State of which he was a Representative did the same. He recollected that sixty-three members of that part of this House, with whom it had been, and would always be, his pride and pleasure to act, had recorded their votes against it. The voice of the country had since pronounced its doom, and left for Congress nothing to do but to repeal the act. Disguise it as you will,

said he, the world has seen the act in its true character; has regarded it as a measure calculated to affect the struggle going on in the South, and discovered that, however neutral in its language, its bearing was altogether against the cause of the patriots. How, asked he, is that war now carried on? But for the supplies drawn from this country through Havana, for sustaining the army of Morillo, this modern Alva, whose career is characterized by all the enormities which have consigned to perpetual infamy the name of his great prototype; but for the supplies drawn through Havana, whose port is open to us only for the sake of those supplies, General Morillo could not have supported his army. This fact he had from the highest authority, from the commander of one of our national vessels who had been on a cruise in that quarter and had received it from the lips of Morillo himself. It becomes us, Mr. C. said, really and bona fide to perform our neutral obligations. He had seen and heard of circumstances respecting this subject, humiliating in the extreme. He had been told, for instance, that in the case lately argued in the Supreme Court of the United States, of some of those individuals tried in the court of the United States at Boston, not only was the Attorney-General ready at his post, as he should be, to attend to it, but the attorney for the Massachusetts district was there to argue it also; and, not satisfied with this, a foreign agent was seen attending the court, to see probably that nothing was omitted, and not even a poor Amicus Curiæ was there to speak for the accused. Such was the state of the case that the humanity of the Attorney-General had interposed, and induced that highly meritorious officer to make some suggestions favorable to those individuals. Was there a man in this country, Mr. C. asked, who did not feel his conscience reproach him for that transaction?

The act of 1797 being given up on all hands, and the act of 1817 being, as he thought he had shown, unnecessary, he hoped his motion would prevail. If, however, contrary to his belief, the House should decide that the act of 1794 did not cover the case of the existing civil war, and the act of 1817 should be thought necessary to bring it within the provisions of the act of 1794, Mr. C. said he should, in that event, submit another proposition to amend the bill, predicated on the idea that some provision was necessary in addition to the act of 1794.

The motion of Mr. CLAY to amend the bill having been stated from the Chair—

Mr. FORSYTH said he was opposed to the motion, and could not but suppose the honorable Speaker himself was doubtful of its success, as he had drawn before the House a variety of considerations which had no bearing on the question. Mr. F. denied, in the first place, that public sentiment had condemned the act of 1817. It was true, indeed, that certain exclusive friends of liberty, at the head of presses in the United States, had condemned this act; but, so far as we have any expression of opinion from the great body of the people of the United States, from the thinking part of the community, the act had been approved. But the Speaker had informed the committee that sixty-three members of the House had opposed that act, and that all the members from a certain section of the country were in favor of it. This was another point, Mr. F. said, on which he differed from the honorable Speaker. The act of 1817, as it stands, came into this House on the 3d of March, 1817, and was passed by a large majority, the yeas and nays not having been required on it. How the Speaker then had ascertained the political complexion of those who voted for the bill, Mr. F. knew not; as far as he recollected, a very small minority had voted against it. That part of the bill which had been objected to in this House, had been stricken out in the Senate, and the bill, so amended, and as it now stands, was scarcely opposed on its final passage. There was, therefore, no decided political sentiment expressed on the passage of the bill. But, to excite prejudice against the act of 1817, another ground had been taken, and a suggestion made, which, if true, was a reflection, not on the House, but on the gentleman whose eulogy the Speaker some days ago pronounced. The origin of this act had been imputed to the *teasing* of certain foreign agents near the United States. That the Message of President Madison, recommending that act, was in consequence of the representations of foreign ministers, Mr. F. said he was ready to admit—not of reiterated importunities, but of a performance of their duty to their Governments by remonstrating against violations, by citizens of the United States, of obligations which we owe not to any one nation, but equally to all. A remonstrance had been made by the Portuguese Minister, a garbled representation of which had been published; a similar statement of facts had been made by the Minister of Great Britain, another by the Minister of France. All the foreign Ministers here had, in short, represented that citizens of the United States, engaged in cruises in patriot vessels, as they were called, fitted from our ports, committed depredations on the commerce of England, France, and Spain. What, Mr. F. asked, had been the duty of the President of the United States if these facts were true? Were not the United States bound to make reparation, if, without an effort to prevent it, we suffered depredations to be made, by our citizens, and from our ports, on the commerce of nations in amity with us? The Government, he said, had heretofore recognized this principle, and had remunerated foreign citizens for property taken from them by citizens of the United States. The President, then, had barely performed an imperious duty in representing to Congress the insufficiency of the laws, &c.

But, Mr. F. said, he would never do the late President the injustice to state his views, when he had it in his power to quote his own lan

guage conveying them. [Mr. F. then referred to the President's Message, of last session, on which the neutrality act of March 3d, 1817, was founded.] He appealed to every other member of the House whether, in this recommendation, there was any thing censurable; any thing that the most fastidious could mark for reprobation. The act of 1817 was precisely correspondent with the Message, and, almost in so many words, an answer to it. It corrected the defects of the existing laws, and enabled the President of the United States, where there was strong ground to presume that a cruiser was about to violate the neutral relations of the United States, to arrest his departure until he should give bond not to violate the laws of his country. But this, the House had been told, was a most extraordinary provision, and unprecedented in the annals of civilized legislation. It was not necessary, Mr. F. said, for him to tell the House that, whenever a citizen of the United States or of any State is accused, on public ground, of intending to commit an offence against the authority of the laws, it is the duty of a magistrate to require him not only to give security not to commit a particular act, but to bind him over, in ample security, that he will not violate any of the laws. But it was objected, particularly, that it was required of a citizen to give bond to refrain, when beyond the jurisdiction of the United States, from certain acts. And was it not right to do so, when the United States were responsible for his conduct when beyond their jurisdiction? That was a question which had long been settled. And was there any hardship, Mr. F. asked, in requiring bond from a citizen that he will refrain on the high seas from acts affecting the character of the country, and involving it in disputes with foreign powers? And yet there was nothing else in that act which even in the eyes of the honorable Speaker was reprehensible. But this provision had been said to be unprecedented. Why, Mr. F. said, our statute book is full of similar provisions. Every restrictive law of the United States, every law forbidding commercial intercourse or regulating it with foreign nations, contains similar provisions. The laws prohibiting the slave trade contain similar provisions. If a person swear that he suspects another of intention to violate the laws, against the slave trade, the person so suspected is required by the collector to give bond and security that he will not violate the law in this respect. And where, Mr. F. asked, was the impropriety of this provision? But there was a still stronger case: That of the act prohibiting intercourse with St. Domingo was perfectly parallel to the present; for, although the color of those who were there fighting for their liberty might make a difference in the policy of the Government, it could make none in the principles on which that policy was founded. It was well known that, at the date of that act, a contest existed between the European colonists and the colored population of St. Domingo; the latter claiming a recognition of their liberty, the former claiming to reduce them to obedience. Did the United States permit the vessels of that Government, or pretended Government, to come here for military supplies? Did it permit the agent from St. Domingo to reside here, to grant commissions to privateers, to make representations to the Government, officially or unofficially, and to make appeals from the acts of the Executive to the Congress or the people? No, Mr. F. said, the Government of France asked from the justice of this country, to pass laws prohibiting any commercial intercourse with the citizens of St. Domingo, and an act was passed, for two years, and afterwards continued in force for two years longer, one of the provisions of which was similar to that one of the act of '17, which was so much reprobated by the Speaker.

Mr. ROBERTSON, of Louisiana, said he had voted against the act of 1817, and was now in favor of its repeal. Before coming to that question, however, he would remark that, when our situation was more critical, and when, in point of resources, we were infinitely weaker; when, in 1794, our citizens were engaged in behalf of the republicans of France, with a zeal infinitely more dangerous to the peace of the country than any thing that has been exhibited in regard to the patriots of South America, the act of 1794 had been deemed sufficient to secure the observance of our neutral relations. Was our situation, he asked, more critical in 1817 than in 1794? If not, ought we to have been induced to take stronger measures by far than had been applied to the emergency of 1794? The administration of WASHINGTON not only deemed the act of that day sufficient, but cautiously limited its duration to two years. It had been subsequently renewed two or three times, and Congress had always been satisfied with its provisions. In 1817, however, a state of things somewhat similar occurs, but infinitely less critical, in consequence of another effort, by another people, to throw off the yoke of a despotic Government. As the struggle of the people of France for liberty gave rise to the act of 1794, so that of the people of South America gave rise to the act of 1817, which was passed by Congress without the knowledge of any exterior pressure on the Government, or of the letter which had been mentioned, and other representations. It now appeared that the act of 1817 was passed in consequence of representations of foreign nations, growing out of hostile feelings to the cause in which the people of South America were engaged. This, said Mr. R., might be a sufficient ground for the Ministers of Portugal, of England, and of France, to proceed upon—but shall we sympathize in their feelings on the subject, and be induced by them to pass acts to shackle our citizens, when it is so easy to trace their remonstrances to a general hostility to the cause of any people who are engaged in a struggle to ameliorate their condition by changing their form of government? It did not appear now, he said, that

that act had been passed so much with a view to do what was just to ourselves, as to accommodate the views of foreign nations. That, Mr. R. said, had been his objection to the act when it passed; and the more its causes and effects were developed, the more anxious he was to get rid of it, and to return to the statutory provisions of 1794, which, for a number of years, had been found sufficient.

The cases stated by the Chairman of the Committee of Foreign Relations, (Mr. FORSYTH,) as having induced the passage of the act of last session, were already provided for by the act of 1794; he referred to cases of fitting out vessels in our harbors, and with them cruising against the commerce of foreign nations, prohibited in that act, under very heavy penalties. But the act of 1817 went a step further, and authorized the collector to stop any vessel manifestly built for warlike purposes, if it has a cargo on board which shows it to have been intended for such purposes, or having a crew, or for any other cause, justifying that suspicion. Mr. R. wished to know by what authority the Government undertook to say, that a vessel built for warlike purposes should not leave the ports and harbors of the United States. What breach of neutrality is it to suffer such vessels to depart our ports; and why are we required, in this manner, to cripple the operations of the shipholders and shipbuilders? Mr. R. strongly objected to the latitude of discretion given to collectors by the term "or for any other cause," which subjected the vessels of our citizens to vexatious detentions. This, he said, was one difference between the act of 1794 and that of 1817; but there was yet another. By the act of 1817, not only armed vessels, but vessels manifestly built for war, though built for sale only, were forbidden to go from our ports without giving bond that they were not to be employed in aiding or assisting any military expedition, &c., and so obviously unjust was this provision, that the gentleman himself had found it necessary to propose an amendment to narrow its scope. Mr. R. concluded by repeating that he could see nothing in our situation which required a stronger act than was deemed sufficient in 1794, and he, therefore, hoped the acts of 1797 and 1817 would be repealed.

Mr. LOWNDES commenced his remarks by redeeming the act of 1817 from the charge which had been alleged against it, as far as his opinion went, by declaring that act not to have been adopted in consequence of any foreign remonstrance, but to have been the deliberate expression of the judgment of this and of the other House; and, though he had listened with the greatest attention to the arguments of the gentlemen from Kentucky and Louisiana, they had failed to convince him that that deliberate expression of the opinion of Congress at the last session ought now to be reversed. But, he said, there was less difference on principle than he had expected to have found between those gentlemen and those who approved the act of the last session. The Speaker particularly had conceded that the acts were unlawful which that law was designed to prevent; and the only difference between us, said Mr. L., is that for the prevention of these unlawful acts we propose a remedy, which they will not accept. On the question of the criminality of enlistment in a war between two powers with whom we are in amity, we perfectly agree. The opinion of the House and of the country, Mr. L. said, must be that, so long as we profess neutrality, we ought to observe it; that our neutral obligations should be fairly and honestly fulfilled. And it was because he thought it the duty of Congress to prevent our citizens, by requiring bond and security to that effect, from engaging in the existing war, that he was willing to continue the act which the Speaker proposed to repeal. He could not think, he said, that there was any thing new in the act of 1817; not merely because similar provisions might be found in our own municipal regulations, but because analogous provisions existed in the laws of other nations. Mr. L. asked of the honorable Speaker, seeing that in time of war we require bond from privateers, before commissioned, that they will not violate the laws of nations, why in time of peace he would not require bonds from those suspected of the intention to violate them. Mr. L. considered it an imperfect view of the subject to suppose that the bond thus required was only to prevent injury being done to any one power. Those who leave our shores to assail the property of one power, may, when they get to sea, employ their arms against any and every nation. It was perfectly fair, certainly, that those who left our shores with the means of mischief on board, should give that security against their involving the interests, and perhaps the peace of their country, which bonds, such as are required by the law of 1817, are calculated to afford. The gentleman from Louisiana appeared to think that there could scarcely be any thing in the *cargo* of the vessel which ought to be taken as an indication of a warlike purpose. Now, Mr. L. said, though he did not think this clause material—not, however, that he would repeal a law because every syllable it contained was absolutely necessary—yet he thought that from the cargo the object of an expedition fitted from our ports might be readily inferred. Might there not, he said, be that preparation of fixed ammunition, &c., which would afford a strong presumption that the vessel was not intended for traffic, but prepared for war? He thought this might occur where other proof would fail. Mr. L. took other views of this question. He said he could not regard this question as one of a mere fulfilment of our duties to the countries at war, as the vessels equipped in our ports might be employed against other countries with whom we are at peace, as well as against those belligerents. One consideration for such an act he would suggest, which it was too late for us to deny, that we are responsible for injuries

done by vessels of the United States, after they leave our ports, before they arrive at a foreign port. For such depredations we are responsible, and have recognized the principle by paying claims founded on it. We have bound ourselves to respect the principle in a manner equally obligatory, by preferring claims founded on it against other nations. Having done so, every consideration of prudence, of respect for the character of our country, requires that we should exact the security which is demanded by the act of 1817. As regards those who desire to trade in vessels of war, it is necessary to provide, as has been provided, that it shall be carried on in a way beneficial to them, but compatible with the higher interests of the country. No duty, said Mr. L., is by the act of 1817 exacted from any individual which the Speaker does not think, as well as myself, ought to be performed; a bond only is exacted, in certain suspicious cases, that that duty shall be performed. Where the hardship, then; where the commercial inconvenience of being required to give bond that, while on the high seas, the suspected vessel shall not violate the laws of the country? The act of 1817 created no new duty, established no new prohibition; it only secured the execution of existing duties in a particular, for the failure to observe which the Treasury of the United States, and not the offending individuals, would ultimately be responsible. Mr. L. would not say that the act merited none of the reprobation bestowed on it; but he would say that it had not been *proved* to contain any injurious or oppressive provisions.

Mr. CLAY said it was always with very painful regret that he found himself differing from the gentleman who had just taken his seat, and with the Chairman of the Committee of Foreign Relations; and, when differing from them; he almost distrusted his own perceptions. But this was not the first time he had that misfortune; for his honorable friend (Mr. LOWNDES) had been at the last session a powerful auxiliary in carrying through the bill which then passed, and was now proposed to be repealed. Notwithstanding his great regret at the circumstance, however, he must obey the dictates of his own judgment. Mr. C. said he never had intimated that the act of 1817 did not originate in the judgment of this House, or that it was passed at the instance of any foreign Ministers; and yet, if he understood the gentleman from Georgia, he had admitted that the committee had had the benefit of the suggestions of several foreign Ministers. It was immaterial to him, Mr. C. said, whether the act sprung from any suggestion of foreign agents, or whether after it was recommended, the letters of the Ministers were sent to the Committee of Foreign Relations. As to the foreign Ministers, Mr. C. said, in referring to them, he meant nothing disrespectful towards them—he would not treat with disrespect even the Minister of Ferdinand, whose cause this bill was intended to benefit; he, said Mr. C., is a faithful Minister; if, not satisfied with making representations to the foreign department, he also attends the proceedings of the Supreme Court, to watch its decisions, he affords but so many proofs of the fidelity for which the representatives of Spain have always been distinguished. And how motifying is it, sir, to hear of the honorary rewards and titles, and so forth, granted for these services; for, if I am not mistaken, our act of 1817 produced the bestowal of some honor on this faithful representative of His Majesty—and, if this bill passes which is now before us, I have no doubt he will receive some new honor for his further success. No, Mr. C. said, he would never treat foreign Ministers to our Government with disrespect. But yet he was not entirely satisfied with the suggestions respecting the representations, garbled and ungarbled, of the foreign Ministers. In regard to the letter of the Minister of Portugal—a man whom Mr. C. said he highly venerated; whom he regarded as an honor to his country and an ornament to science—a man whose country could not have shown a greater respect for the United States than by deputing him as its representative to this Government—with regard to that letter, as the gentleman had charged the publication which had been made of it to be a garbled one, and it seemed by his confession, (his precious confession, he would call it, but not in the obnoxious sense of the term,) that he either had the document in his possession or had seen it, he hoped that he would lay it before the House in extenso, that they might see it in its ungarbled state, &c. But, having been contradicted in the statement he had made when up before, respecting the passage of the act of 1817, Mr. C. begged of the honorable gentleman, before he disputed any statement of his (Mr. C.'s) to take the trouble to examine whether he was himself correct. If the gentleman would turn to the Journal, he would find that, on the question to engross the bill, there were sixty-three in the negative. [Mr. FORSYTH explained; the bill thus ordered to be engrossed was not that which finally passed, which came from the Senate.] If, Mr. CLAY continued, the gentleman would look over the list of names recorded in the negative, he would find the name of one of the present Cabinet, the Secretary of War. The yeas and nays had also been taken on the proposition to postpone the bill indefinitely when it came back from the Senate; and, although owing to the period of the session, a smaller number voted on the bill, there were yet thirty-seven votes for postponement, to some sixty odd against it.

But, said Mr. C., it seems that in the remarks which I have submitted, I have made some reflections on the late President of the United States. No such thing. But was there not, he asked, a considerable alteration, since the act of 1817, in our posture in respect to the war between Spain and the Provinces. The Executive had since declared to the whole world that the condition of the United States is one of neutrality in regard to the contest. Not that only

but that the war carrying on is a civil war, and that we owe to both parties all the obligations of neutrality—the obligations due to a party in a civil war being very different from those due to a people in rebellion, and demanding therefore a different state of our laws. But, returning to the late President of the United States—no man, Mr. C. said, had a more high sense of the exalted character and distinguished services of the gentleman to whom he thus alluded; but, whilst, said he, I am a Representative of the nation, I shall speak freely my sentiments, let them be in opposition to whom they may, whether the existing or any former Chief Magistrate of the United States. Mr. C. then called upon gentlemen to show that the act of 1794 was inapplicable to the existing conflict under the circumstances of the change of attitude, to which he had referred. The gentleman had contended it was not, because of a decision in the case of St. Domingo. That, Mr. C. said, was a case standing on insular ground, and totally different from the present. We admit the flag of the patriots: that President Madison did—we declare the contest to be a civil war: that President Monroe did—and commissioners have been sent there, if not with credentials, to hear and make representations. The Judiciary then would say, that the act of 1794 does include the case, and the act of 1817 would be superfluous and unnecessary, but for the further provisions contained in that act. Gentlemen had contended, that these further provisions were necessary, because it was proper to require bond and security from vessels departing from our ports, that they will not violate our neutral obligations without the territory of the United States. This proposition, Mr. C. could not reconcile with the admission he understood gentlemen to make, that acts committed out of our jurisdiction are acts of which foreign powers must take care for themselves.

The bonds required by the restrictive systems, which had been referred to, were not analogous to the present case; they stood on peculiar ground, the measures they were necessary to enforce having been required by our own policy, in defence of our own rights and interests, and were not an act of legislation for the benefit of a foreign power, for whom we are under no obligation to legislate. The difference in the two cases was precisely the difference between legislating for ourselves and legislating for others. But it had been said, that bonds are required even from privateers in war. That is because they have commissions, said Mr. C., and, acting under our authority, constitute a particular part of the force of the community, and the bond is required for our own sakes. Whilst on this subject, he said, he could not see the cause for all this anxiety on the part of gentlemen, lest the patriots should get hold of a vessel prepared for war. Were they not aware that the whole marine of the Island of Cuba consists of vessels purchased from this country? Ships are an object of commerce, condemned by no authority. It was particularly fitting, under present circumstances, that we should give every facility to the sale of our ships. Do we not know, said he, that owing to the condition of the world, our merchant vessels are cut out of employment, and that, unless we can sell them, they will rot at our wharves? Mr. C. laid it down as a principle, incontrovertible, that a ship, armed or not armed, was an object of commerce. Gentlemen would not deny, that the materials of armament might be separately sold, and afterwards combined. But the honorable gentleman from South Carolina had made one admission, which gives up the question, when he conceded that an armed ship might be fitted out—completely equipped—go to a foreign port, and afterwards go to war with any belligerent whatever, without a violation of our neutrality. And yet such a course, admitted by the gentleman to be lawful, was expressly forbidden by the act of 1817.

[Mr. LOWNDES briefly explained, not admitting the principle Mr. C. considered him as ceding, in the latitude given to it by the Speaker.]

Mr. C. said he had conceived the principle to be fairly inferred from the course of the gentleman's argument; and he did not yet understand him as denying, that, after a vessel gets into a foreign port, and departs thence, our responsibility for its conduct ceases. And the gentleman had the other day admitted, in debate on another subject, the right of expatriation. Suppose, then, that any number of citizens of the United States should fit out an armed vessel to go to any port in Spanish America, and there expatriate themselves by becoming citizens of another country, might they not then engage in war under the flag of that country? Gentlemen would not deny it, and yet they would be forbidden to do so by the act of 1817.

Mr. C. stated further objections to this act. For example, the collector of a port might detain any vessel, when the number of men, the nature of the cargo, or any other circumstance, induce him to suppose the vessel is intended for cruising with a belligerent purpose. Mr. C. said he was opposed to vesting such discretionary power in any collector. The voyage may be intended to Lima, to China, or any distant port, and the voyage may be totally defeated, and heavy loss incurred, by a mere caprice of the collector. Mr. C. wished his honorable friend (Mr. JOHNSON) to read a letter he had received from St. Bartholomew's, stating that three vessels had arrived there from British ports, not only with skeletons of regiments, but with nearly all the men, on their way to join the patriots. Had these men, Mr. C. asked, been subjected to any bond and security—to any such onerous provisions as are contained in this bill? No, said he; we alone, it seems, are to stretch our power to its limit to prevent our citizens from aiding in any manner the efforts

of those who are struggling for liberty in the South; whilst Great Britain, in this respect, pursues a policy which we might worthily imitate. While at peace, he admitted, we ought to perform our obligations of neutrality; but they did not require the passage of bills with neutral titles, but with provisions favorable to one only of the belligerents. What, on the other hand, had Great Britain done? She had issued a proclamation which almost recognizes the independence of the provinces, calling the contest a war between America and Spain, and forbidding her citizens to engage in it, but requiring no bond and security from them. No, said Mr. C., she has gone a step further than she has ever before gone: her citizens, who constitute a part of the armies of Spain, she has forbidden from fighting against the patriots. I wish we might imitate her example, and observe a real neutrality, instead of that which exists in name only, to the prejudice of one party and not of the other

In reference to the suggestions made by Mr. LOWNDES respecting spoliations, Mr. C. asked, what success have we had in our applications for indemnity for spoliations? We are told, very good-naturedly, indeed, by the Secretary of State, in a late communication—I am sorry we have not the benefit of that letter—though, when we get it, I presume we shall find it a compilation of other works on the same subject—the Secretary of State tells us, very good-naturedly, that we have patiently waited for the settlement of our differences with Spain, and it will require no very great effort to wait a little longer. Very good-natured, indeed! No change, say gentlemen, in the aspect of our relations with Spain! Yes, a most humiliating one, within the last three or four years. We were told by the President, in his message at the commencement of the session; and, ambiguous as the intimation was, hope clung to it as promising a change; that a disposition had been shown on the part of Spain, to *move* in the negotiation. And what sort of a motion was it? A motion which has terminated in something like a perpetual repose, waiting till the passions and prejudices of His Majesty of Spain may have time to subside. Admirable Job-like patience, said Mr. CLAY. I thank my God that I do no possess it.

Let us, said Mr. C., in conclusion, put all these statutes out of our way, except that of 1794. When was that passed? At a moment when the enthusiasm of liberty ran through the country with electric rapidity; when the whole country, *en masse*, was ready to lend a hand and aid the French nation in their struggle, General WASHINGTON, revered name! the Father of his Country, could hardly arrest this inclination. Yet, under such circumstances, the act of 1794 was found abundantly sufficient. There was, then, no gratuitous assumption of neutral debts. For twenty years that act has been found sufficient. But some keen-sighted, sagacious foreign Minister finds out that it is not sufficient, and the act of 1817 is passed. That act, said Mr. C., we find condemned by the universal sentiment of the country; and I hope it will receive further condemnation by the vote of the House this day.

Mr. LOWNDES rose to vindicate himself from the charge of inconsistency alleged against him by the Speaker; but which, he said, could not be properly established by taking a sentence or half a sentence from a speech, and founding an argument on it. The Speaker infers, said he, because I will not take measures to punish him who, without the jurisdiction of the United States, enters into a vessel armed by a foreign authority, and cruises on the property of foreign nations, that I must therefore be willing that a citizen of the United States, within the limits of the United States, in a vessel belonging to the United States, shall involve the Government in a responsibility for her acts, with equal impunity. Mr. L. submitted to the committee, whether there was any resemblance between the two propositions.

Mr. FORSYTH explained the difference as to facts between him and the Speaker. If what the Speaker had advanced, respecting the vote on the act of 1817, had been intended as argument, Mr. F. said, he had endeavored to show that there was no weight in it, by showing that the vote to which the Speaker had referred was not on the bill which actually passed, but on a bill reported by the Committee on Foreign Relations which did not pass. The member of the Cabinet, who had been referred to, voted against the last-mentioned bill, but in favor of that which passed into a law, and there was a very small minority against it. With respect to the influence which produced the passage of the act of 1817, if there was any felt, it was by the President, and to him must be imputed the blame; for to him the remonstrances of the foreign Ministers had been addressed, and he had brought the subject before Congress. With respect to the correspondence with the Ministers, on the call of the committee for facts of depredations by our cruisers, these papers had been shown to them. I have no recollection, said Mr. F., of every word in one of the official notes, but I am sure that the version which has been given of it is not correct. I very well recollect, although not particularly remembering the particular words or arguments, that the tone of the letter and its manner were perfectly respectful to the Government, and such as might have been expected from the character of the Minister. It was neither indecent nor disrespectful; in the letter which is published as a copy of that, there are passages both indecent and disrespectful.

In reply to the suggestion, that even if the act of 1817 was required at the time it passed, it was no longer necessary, because of a change in our posture, Mr. F. said he knew of no such change. As far as the independence of the provinces, or of any of them, was recognized at this moment, it had been at that day. If his

memory was not, in this respect, treacherous, the President of the United States announced to the Spanish Minister, through the Secretary of State, in the correspondence between them laid before this House at the middle of the last session, that such was the relation in which we regarded them. This answer had been given to an application to exclude their flags from our ports.

To show that his construction of the decision of the Supreme Court on the act of 1794, as applied to the case of St. Domingo, was correct, Mr. F. quoted the words of the decision from Cranch's Reports. In Massachusetts, the case referred to by the Speaker, was that of an indictment for piracy, from which the accused sought to shield himself by a commission from one of the Governments asserting their independence. The judges composing the court differed on points of law. One of the questions was, whether a commission emanating from any revolted colony, district, or people, whose independence was not recognized by the Executive authority of the United States, was valid. Here was a question, very different from the present one raised by the courts of the United States, and brought up for decision; it was not decided, because the counsel for the party was not present, or for some cause of that description. This point being doubtful, it was highly proper that the act of 1817 should have removed all doubt on the subject. Under the act of 1794, it was doubtful whether the commission of certain acts was an offence under our laws or not; and a long course of litigation before the courts would have been necessary before the question would have been settled. It was better to settle the question, and clear the law of all doubt. In this view, the act of 1817 was necessary, independently of all other considerations, and ought not to be repealed.

FRIDAY, March 20.

Ohio Contested Election.

The House (having refused to take up the Neutrality bill) again went into Committee of the Whole, on the report of the Committee of Elections respecting the right of Mr. HERRICK, a member from Ohio, to a seat in this House—Mr. ADAMS's motion to reverse the report, and thus vacate the seat, being under consideration.

Mr. TAYLOR concluded his remarks (which were interrupted by the adjournment yesterday) in favor of the report.

Mr. HOPKINSON took the opposite side, and spoke near an hour against the report of the Committee of Elections, and the right of the member to a seat.

Mr. BALDWIN spoke at considerable length in confirmation of the right of Mr. HERRICK to his seat.

Mr. ADAMS briefly replied; when the question was taken on reversing the report of the Committee of Elections, and carried—ayes 67, noes 66.

The committee then rose, and reported their decision to the House.

After a good deal of desultory conversation on various motions, touching the right of certain members to vote on the question, whose seats were supposed to be held under circumstances similar to that of Mr. HERRICK, and therefore personally interested in the decision; and after refusing to excuse Messrs. BARBER, of Ohio, and HUBBARD, of New York, from voting, the question on concurring with the Committee of the Whole in reversing the report of the Committee of Elections, was decided in the negative, by yeas and nays. Those who voted for concurring with the Committee of the Whole, and, of course, against the right of the member to a seat, were:

Messrs. Abbott, Adams, Allen of Massachusetts, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bateman, Bayley, Beecher, Bellinger, Bennett, Burwell, Claiborne, Cook, Crawford, Cushman, Darlington, Edwards, Ervin of South Carolina, Floyd, Forney, Forsyth, Garnett, Hogg, Holmes of Connecticut, Hopkinson, Huntington, Irving of New York, Johnson of Virginia, Little, Lowndes, McLane, Marr, Mason of Rhode Island, Middleton, Jeremiah Nelson, H. Nelson, Owen, Pawling, Peter, Pindall, Pleasants, Reed, Rhea, Rice, Richards, Robertson of Louisiana, Ruggles, Sawyer, Schuyler, Sergeant, Seybert, Sherwood, Simkins, Slocumb, S. Smith, Bal. Smith, J. S. Smith, Speed, Stewart of North Carolina, Terrill, Terry, Tompkins, Tucker of Virginia, Tucker of South Carolina, Walker of Kentucky, Wendover, Westerlo, Whiteside, Williams of Connecticut, Williams of New York, Williams of North Carolina, and Wilson of Massachusetts—74.

Those who voted against concurring, and in favor of the member's keeping his seat, were:

Messrs. Allen of Vermont, Anderson of Pennsylvania, Barber of Ohio, Bassett, Bloomfield, Blount, Boden, Boss, Butler, Campbell, Clagett, Cobb, Comstock, Cruger, Culbreth, Desha, Earle, Ellicott, Folger, Gage, Hale, Hall of Delaware, Harrison, Hasbrouck, Herkimer, Hitchcock, Holmes of Massachusetts, Hubbard, Hunter, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Linn, Livermore, W. P. Maclay, McCoy, Marchand, Mason of Massachusetts, Merrill, Moore, Morton, Mosely, Mumford, Murray, New, Ogle, Palmer, Patterson, Poindexter, Porter, Rich, Ringgold, Robertson of Kentucky, Sampson, Savage, Scudder, Settle, Shaw, Silsbee, Southard, Spencer, Strong, Tallmadge, Tarr, Taylor, Townsend, Tyler, Upham, Walker of North Carolina, Wallace, Whitman, Wilkin, and Wilson of Pennsylvania—77.

So the House refused to concur in the report of the Committee of the Whole; and then, after an unsuccessful motion by Mr. FORSYTH, to recommit the subject to the Committee of Elections, with instructions to report the case of Mr. HERRICK distinct from other cases now embraced in the report; and a motion also unsuccessful, by Mr. ALLEN, of Massachusetts, to postpone the report indefinitely—

The question was taken, by yeas and nays, on agreeing with the Committee of Elections, that Mr. HERRICK is entitled to a seat, and decided in the affirmative—yeas 77, nays 70.

TUESDAY, March 24.

Another member, to wit, from Pennsylvania, THOMAS J. ROGERS, elected to supply the vacancy occasioned by the resignation of John Ross, appeared, produced his credentials, was qualified, and took his seat.

Batture at St. Louis—Pre-emption Rights, and Out-lots and Commons in Missouri.

On motion of Mr. SCOTT,

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of granting or securing to the town of St. Louis, in the Missouri Territory, as a common, all the sand-bar or batture, formed by the recession of the Mississippi river, between the said town and low-water mark; and to prohibit the location of any floating claim in the said Territory, thereon, or if any location should have been made, to prohibit by law the issuing of a patent therefor.

Resolved, also, That the Committee on the Public Lands be instructed to inquire into the expediency of prohibiting by law the location of any floating claim, on any lands in the Territory of Missouri, the right of pre-emption to which land has been secured to any settler, by the act of the 12th of April, 1814, or if any such location should have been made, to prohibit by law, the issuing a patent therefor.

Resolved, also, That the Committee on the Public Lands be instructed to inquire into the expediency of prohibiting by law the location of any floating claim, in the Territory of Missouri, on any lands, the right, title, or claim to which, has been at any time heretofore given notice of, or filed with either of the Boards of Commissioners in said Territory, or with the recorder of land titles, acting as such under any law of Congress, for the adjustment of land titles in said Territory, or, if any such location should have been made, to prohibit by law the issuing of patents therefor.

Resolved, also, That the Committee on the Public Lands be instructed to inquire into the expediency of prohibiting by law the location of any floating claim in the Territory of Missouri, on any town lot, village lot, out-lot, common field lot, or common, in, adjoining, or appertaining to any of the towns or villages in the Territory of Missouri, or if any such location shall have been made to prohibit by law the issuing of patents therefor.

National Flag.

The House then resolved itself into a Committee of the Whole on the bill to alter the flag of the United States, [providing that from and after the fourth day of July next, the flag of the United States be thirteen horizontal stripes, alternate red and white; that the Union be twenty stars, white in a blue field; and that, on the admission of every new State into the Union, one star be added to the Union of the flag, and that such addition shall take effect on the fourth day of July then next succeeding such admission.]

Mr. WENDOVER rose. In complying with a duty incumbent on me, said Mr. W., as resulting from a proposition I had the honor to submit to the House, for altering in part the flag of the United States, I feel no disposition to consume much of the time of the committee, or to indulge in the many observations which the nature of the subject might appear to justify. But I ask the patience of the committee, while I state a few of the considerations which present themselves in favor of the bill now on your table.

Sir, the importance attached to a national flag, both in its literal and figurative use, is so universal, and of such ancient origin, that we seldom inquire into the meaning of their various figures, as adopted by other nations, and are in some danger of forgetting the symbolical application of those composing that of our own.

Were we now about to devise suitable emblems for a national flag, I doubt not we should see much diversity of sentiment, and perhaps some efforts for local gratification; but I presume we should unite in some general and appropriate figures, referring not to sectional but national objects. But on this subject we need not differ. Suitable symbols were devised by those who laid the foundation of the Republic; and I hope their children will ever feel themselves in honor precluded from changing these, except so far as necessity may dictate, and with a direct view of expressing by them their original design.

Mr. Chairman, I am not particularly informed as to the origin of our flag; but have repeatedly heard it was first used by a citizen of Philadelphia, on his own vessel, and afterwards adopted by the Congress of the Revolution, as appropriate to and emblematical of these confederated States, contending for the rights of man, and the rich boon of an independent Government. At its adoption our flag was founded on a representative principle, and in the arrangement of its parts made applicable to the number of the States then united against the common foe.

The same representative principle was retained and applied when the flag was altered; but experience having shown that a similar extension of numbers throughout the flag would now be improper and inconvenient. It is worthy the attention of the National Legislature again to consider the subject, and see if it be practicable to retain in it the object centemplated by its founders, as pointing to the component parts of the nation, without losing sight of the original formation of this Government as a free republic.

Sir, the flag of the United States having undergone some change, and in its present state being altogether inappropriate, we are called upon to determine whether a further change be not advisable, and, if it be, what alteration will be most proper, and best to apply to the present and relative state of the nation, consistent with the representative character of the flag. If you do not alter it, you do injustice to the States

admitted into the Union since the former alteration; and if you alter in the way as before, you will destroy the conspicuity of your flag, and render it too indistinct to be known at a distance, and increase the inconvenience already experienced.

At the present day, and particularly since the commencement of the late war, there are few vessels, however small, if they carry a mast, but are furnished with a flag of some description; and it is well known to gentlemen living on the seaboard, and others, that it is impracticable for small vessels to conform even to the present law; and the law itself does not correspond with the existing or original facts.

The flag of the United States was altered by law, from thirteen to fifteen stripes and stars, on the first of May, 1795, to apply to the admission of Vermont and Kentucky into the Union. On the first of June, 1796, Tennessee was admitted. Thus the alteration was applicable to the fact on which it was predicated, for the short space of one year and one month. On the 19th of February, 1803, Ohio was admitted, Louisiana on the 30th of April, 1812. Indiana was admitted at the last session of Congress, and Mississippi at the present session, and you now have on your table a bill for the admission of another State. Calculating on such a result caused many to regret the former alteration; and no doubt the same reason operated in the House of Representatives when the bill passed, and will account for the small majority of eight by which it succeeded.

I presume none will now advocate the propriety of continuing the fifteen stripes as at present; that number was founded on a mere contingency, which has since repeatedly happened, and will frequently occur; whereas the number proposed by the bill refers to our national origin, and is equally interesting to all.

Sir, it cannot be deemed proper to go on and increase the stripes in your flag. There are now twenty States; what number they will ultimately extend to none can conjecture. For my own part, I doubt not there will in time be accessions from the East, from the North, from the West, and from the South. Sir, I am not now speaking of conquest. I am willing every people should "manage their own affairs in their own way." But I can no more believe that any portion of the earth will remain in perpetual thraldom, and be forever tributary to a foreign power, than I can subscribe to the doctrine of a ceaseless succession of legitimate kings.

Sir, it cannot be deemed desirable, under the existing state of things, in relation to the stripes and stars in the flag, to retain it in its present situation; it is not only inapplicable, but both parts refer to the same thing, and the one is a duplicate of the other; but the alteration proposed will direct the view to two striking facts in our national history, and teach the world an important reality, that republican government is not only practicable, but that it is also progressive.

Is it desirable to produce greater uniformity? Most undoubtedly it is. In the navy the law is generally conformed to, but it is well known that uniformity does not elsewhere exist. If evidence were wanting, among other and numerous instances, I would refer you to the flag at this moment waving over the heads of the Representatives of the nation, and two others in sight, equally the flags of the Government: while the law directs that the flag shall contain fifteen, that on the Hall of Congress, whence laws emanate, has but thirteen, and those at the Navy Yard and Marine Barracks have each at least eighteen stripes. Nor can I omit to mention the flag under which the last Congress sat during its first session, which, from some cause or other unknown to me, had but nine stripes. But even that flag, with all its defects, was entitled to much honor, for it was not only *striped*, but, to use another British cant, it was "*Ragged Bunting*," and was the first flag hoisted on the Hall of Congress, after the proverbial "*Bulwark of Religion*" had here, in this city, shown its anxious solicitude to promote the useful arts.

Sir, I consider the plan proposed as in unison with the original design; it points to the States as they commenced and as they now are, and will, with an inconsiderable addition, direct the mind to a future state of things. The necessary alteration, either now or hereafter, can be made by almost any person, at any place and at any time; and the proposition, if adopted, will in future save the expense of legislating on the subject.

The committee who reported this bill deemed it advisable to direct that the stripes be horizontal; this is now the form in use; but it results from example, and not from the act, and would be equally conformable to law, if the stripes were arranged in a perpendicular direction. There is, indeed, one exception in practice. Under the laws for the collection of impost and tonnage, the Executive has directed that the cutters and boats employed in this service shall carry ensigns and pennants, with perpendicular stripes, and other marks of distinction; but this being alterable at the pleasure of the President, forms no objection to the proposition in the bill; and it is obviously proper to define the form in this particular, when it is considered that in this only has been the distinction between the flags of two different nations, and was recently the case as regarded those of France and Holland.

As to the particular disposition of the stars in the union of the flag, the committee were of opinion that might be left at the discretion of persons more immediately concerned; either to arrange them in the form of one great luminary, or in the words of the original resolution of 1777, "representing a new constellation."

Mr. Chairman, in viewing this subject, there appears to be a happy coincidence of circumstances, in having adopted the symbols in your flag, and a peculiar fitness of things in making the proposed alteration. In that part designed

at a distance to characterize your country, and which ought, for the information of other nations, to appear conspicuous and remain permanent, you present the number of the stars that burst the bands of oppression, and achieved your independence; while in the part intended for a nearer, or home view, you see a representation of your happy Union as it now exists, and space sufficient to embrace the symbols of those who may hereafter join under your banners.

Spanish American Provinces.

The House went into Committee of the Whole on the appropriation bill; the clause appropriating thirty thousand dollars for compensation to the Commissioners, sent to South America by the Executive in December last, under consideration.

Mr. CLAY wished to know if this appropriation was to defray the expenses of the commission lately sent to South America; if so, he would ask of the chairmen of the Committee of Ways and Means and the Committee of Foreign Relations, whether those Commissioners were furnished with credentials, and if their appointment had been confirmed by the Senate; also, to what ports of South America they were sent, and the probable duration of the commission; and, also, if it would not be looking too much into its objects, he would be glad to know what those objects were.

Mr. LOWNDES said, that although he had not all the information required by the Speaker, yet he was possessed of something on the subject more than newspaper intelligence. It must be recollected that the objects of the Committee of Ways and Means were confined merely to the financial department; they had, however, some information on this subject, received in reply to some inquiries that the committee had, in the performance of their duties, addressed to the Department of State, which would answer the Speaker's inquiry as to the credentials and the probable duration of the commission. The other points did not come within the objects belonging to the Committee of Ways and Means.

The papers referred to by Mr. L. were handed up by him and read as follows:

DEPARTMENT OF STATE, *March* 2, 1818.

SIR: I have the honor to enclose a copy of the commission from this Department with which Messrs. Rodney, Graham, and Bland, were furnished by direction of the President. They have, as you will perceive, no distinct diplomatic rank. They are expected to be absent seven or eight months; and the compensation allowed them by the President is $6,000 each, and $2,000 to their Secretary. Their expenses on the voyage, until their return, except while on shore in South America, are likewise allowed; and Messrs. Rodney and Graham having been appointed in June last, and prepared to go, but by various accidents detained until the beginning of December, when they sailed, claim on that account a further allowance. If after their arrival at Buenos Ayres, they find it advisable that one or more of them should remain on that continent, and go to Chili, that measure is within their discretionary powers. As this contingency was, however, not expected as probable; and, if it should occur, it was not foreseen to what extent of time it might go, no specific allowance was fixed upon for it. Under these circumstances, it was anticipated that the sum of thirty thousand dollars would not more than suffice to cover the expenses of the mission.

I am, with great respect, sir, your very humble and obedient servant,

JOHN Q. ADAMS.

W. LOWNDES, Esq., *Chairman, &c.*

To all who shall see these presents:

Be it Known, Cæsar Augustus Rodney, John Graham, and Theodorick Bland, three distinguished citizens of the United States, and enjoying, in a high degree, the confidence and esteem of the President, are about to visit, in a national ship, on just and friendly objects, and at the special desire of the President, divers places and countries in South America.

These are therefore to request that, whithersoever they may go, they, with their suite, may be received and treated in a manner due to the confidence reposed in them, and each of them, as aforesaid, by the President of the United States, and to their own merit.

Given under my hand, and the seal of the Department of State, this twenty-fourth day of No-
[L. S.] vember, in the year of our Lord one thousand eight hundred and seventeen.

JOHN Q. ADAMS.
Secretary of State.

Mr. CLAY rose, not, he said, to make any objection to the three respectable citizens for whom this appropriation was intended—that was not his object; but to enter his protest to this kind of appropriation by Congress. As to the object of the commission, he thought it of very little use for the expenditure of public money; he referred to the views avowed, and the directions to touch at Buenos Ayres, &c., and said, if the object of the commission was to acquire information of the actual state of affairs in the Southern provinces, it was the most unfortunate mode that could have been adopted for that purpose. What, asked Mr. C., was this mode? Three distinguished citizens are selected, their appointment and intentions are announced by the newspapers, months before their departure, then declared by the President himself, and made known to the whole world, and they depart with all the paraphernalia of public Ministers; information of their object precedes them wherever they go. As soon as they arrive at a South American port they are surrounded by all the factions in the country; royalists, if there were any, as well as republicans; who strive to prejudice them in favor of their respective interests, to mislead their judgments, and prevent the getting correct information of the real condition of things. Mr. C. described the extent of the interior provinces of Buenos Ayres, to show that the time allowed to the Commissioners (if they were acquainted with the language, manners, and habits, of the country) was inadequate to enable them to make any material addition to our stock of in-

formation; but, even if they could, were they to range the whole continent, and visit even the armies, whether successful or not, of the different parties, still, their object being known, they would everywhere be liable to the same deception and imposition. Correct information they would not obtain. The proper course to have adopted, Mr. C. said, was to despatch an individual unknown to all parties; some intelligent, keen, silent, and observing man, of pleasing address and insinuating manners, who, concealing the object of his visit, would see and hear every thing, and report it faithfully.

But it was not to the object of the appropriation, boldly as the mission had been devised, that Mr. C. rose to object; it was the constitutional point it involved that made it obnoxious; and he read the clause of the constitution which requires the consent and concurrence of the Senate to all appointments not specifically provided for by law, to show that these Commissioners should have been nominated to that body—taking it for granted, that they had not been submitted to the Senate. The President had not only made these appointments without the authority of the constitution, or of any law recognizing them, but in derogation from a positive act of Congress. There was an act of Congress fixing the grade of the only Ministers we sent abroad, and it provided for two cases only, that of Minister Plenipotentiary and that of Chargé des Affaires. To the first it assigned a salary of $9,000, to the last a salary of $4,500. Here were Commissioners, then, sent with a salary fixed by the sole authority of the President, and not conformable to that prescribed by the law in either of the two grades. If he might assign $6,000, what was there to prevent his allowance of $50,000? It might be said in that case this House would afford a remedy; but gentlemen would perceive how difficult it would be, to withhold from an agent an appropriation, which had been promised and pledged by the Executive. There was a contingent fund of $50,000 allowed to the President by law, which he was authorized to expend without rendering to Congress any account of it—it was confided to his discretion, and, if the compensation of the Commissioners had been made from that fund, Mr. C. said, it would not have been a proper subject for inquiry; but, under present circumstances, in opposition to the constitution, he could not be going too far, in giving at least his protest to this appropriation. It was not his intention to make any motion on the subject, and he made none.

Mr. FORSYTH said, the constitution vests the Executive with the powers to make appointments in the recess of the Senate. Whether these were such as required the confirmation of the Senate, had been or would be submitted for that purpose, to that body, he did not know, nor was it necessary to inquire. He presumed what ought to be done would be done, and he was disposed to leave the subject to the Executive and to the Senate, to whom it more properly belonged. If the idea of the Speaker was correct, and these were officers requiring a nomination to, and the approbation of the Senate, yet, as they were appointed in the recess, no constitutional wrong had been done in their appointment. But the Speaker had objected to this commission because it was useless, if it was information they went for. Was it not proper and necessary, Mr. F. asked, for the Government to have information of the state of the South American provinces—of their actual political condition, their prospects of success, &c.? If so, this information could be obtained only in two ways—by the newspapers, or by agents sent out for that purpose. The vague and uncertain reports given in the newspapers could not be relied on, and the President had thought proper to send intelligent agents to obtain the knowledge desired. It was probable that a private man might have obtained this information better; but there was another point to be considered—the importance of this information to the Government was such, that it would be necessary that this individual should be an American, and the kind of information to be acquired might have subjected him to the fate of other Americans in the Spanish provinces; he might have been thrown into a dungeon. The opposite party might adopt this course to prevent his communicating the information he should have acquired. This had been done; American citizens had been thrown into dungeons. In whatever aspect this subject was viewed, Mr. F. could see no impropriety in voting this appropriation. It was true, the President might have taken it out of the secret service fund, and no inquiry would have been made about it; but, in order to meet all the expenses of the mission, it might have been necessary to ask a further appropriation for this fund, and then the inquiry would have been made, for what it was wanted. The present course, he thought, was more honorable and fair. It would have been necessary nearly to double the ordinary contingent fund, and it would have been a conclusive objection to the appropriation, that Congress was ignorant of the object to which it was to be applied. Would the House have been willing to vote an addition to the secret service fund, for what might have been considered the employment of spies throughout the world? This objection to such an appropriation, he believed, would have been made with effect; and it was much better for the Executive to proceed in the present open and frank manner. Mr. F. took occasion, in reply to an allusion of Mr. CLAY, to say, that it was true he did not find fault with the Executive quite as often as the honorable Speaker had latterly done, but still he was not the defender of all Executive measures. The committee would do him the justice to recollect that he sometimes differed from the Executive, and never failed to censure what he believed censurable.

Mr. CLAY said, in reply, that Mr. FORSYTH

had not controverted the objection that these appointments had not been submitted to the Senate. But these agents were to be provided for, either in the quality of Ministers or Chargés des Affaires; and, considered in either capacity, the House was called on to make a larger appropriation than was authorized by law for officers of that character. As to a private agent being liable to the fate mentioned by Mr. FORSYTH, what, he asked, were the immunities of the present Commissioners? Nothing more, he said, than those of a private man. It had even been decided, in the affair of the Russian Consul at Philadelphia, that Consul Generals were not entitled to the immunities of Ministers. But, could not the President have given the same commission to one man, sent privately to obtain information, as to those three Commissioners, and with the same effect and validity? As to the object of the commission, Mr. C. again asked, how these gentlemen were to acquire this information respecting the independence of the South American provinces? The fact of their independence was not to be established by a *dedimus potestatum* sent out to take depositions. The independence of some of these States was matter of history—was too notorious to require the evidence of those Commissioners. And Mr. C. referred to the condition of some of the South American States, on which the knowledge was complete, and contended that they had been sent to parts, with regard to which (Venezuela and Buenos Ayres, for example) our information was most perfect, and were not to visit all those parts (Mexico and New Granada) from which we most wanted it. Mr. C. again adverted to the manner in which the Commissioners had been appointed, which being done not according to law, was the more improper, as they had not sailed till after the meeting of Congress, when it would have been scarcely any detention to have waited the concurrence of the Senate, which was in session when they departed.

Mr. HOPKINSON observed, that he did not rise to express any opinion upon the object or utility of the mission in question—he was willing to agree in both; but he desired to express distinctly his dissent to the appropriation, because he believed the appointment of these Commissioners was of a kind, under the provision and spirit of our constitution, to require the approbation and assent of the Senate, and because he had no reason to believe such assent had ever been given by the Senate, or asked by the Executive. He thought it more important for us, as the Representatives of the American people, to attend to and guard our own constitution, than to send abroad to inquire into the form of government of other people. Mr. H. said, that being up, he would take occasion to say that he saw little or no difference between sending a Minister without consulting the Senate, in a case when their assent is admitted to be necessary, and sending him just on the eve of the meeting of that body, without any known urgency, and afterwards submitting the appointment to the Senate. Nobody can believe the Senate can exercise that free and unembarrassed judgment upon the nomination which the constitution intended they should have, after the Minister had actually embarked and sailed for his destination, with his outfit and other expenses of the mission.

On the suggestion of Mr. LOWNDES this appropriation was passed by for the present, that in the mean time the additional information which had been asked for by the Speaker might be obtained from the Department of State.

Mr. CLAY rose, and moved to insert in the bill a provision to appropriate the sum of eighteen thousand dollars as the outfit and one year's salary of a Minister to be deputed from the United States to the independent provinces of the River Plata, in South America.

This proposition Mr. C. followed up by entering into a discussion of the question, involved in his motion, of a formal recognition of the independence of the South American States mentioned. He had spoken something more than an hour, when (having given way for a motion to that effect) the committee rose, about half-past four o'clock, and the House adjourned.

WEDNESDAY, March 25.

On motion of Mr. MARR, the Committee on the Public Lands were instructed to inquire whether any, and if any, what further provisions of law are necessary for preventing waste and trespass on that portion of the public lands which have been, or may hereafter be, reserved for the use of schools.

Presidential Message—Political Condition of Spanish America.

Several Messages were received from the PRESIDENT OF THE UNITED STATES. The first of the said Messages was read, and is as follows:

WASHINGTON, *March* 24, 1818.

In pursuance of a resolution of the House of Representatives of the 7th instant, I now transmit the report of the Secretary of State, with a statement of the expenses incurred under the 4th, 5th, 6th, and 7th articles of the Treaty of Ghent, specifying the items of expenditure in relation to each.

JAMES MONROE.

The second of the said Messages was read, and is as follows:

To the House of Representatives of the United States:

In conformity with the resolution of the House of Representatives of the 5th of December last, I now transmit a report of the Secretary of State, with a copy of the documents which it is thought proper to communicate, relating to the independence and political condition of the provinces of Spanish America.

JAMES MONROE.

WASHINGTON, *March* 25, 1818.

The report of the Secretary of State is as follows:

The Secretary of State, to whom has been referred the resolution of the House of Reprcsentatives of the 15th of December, has the honor of submitting the

documents herewith transmitted, as containing the information possessed at his department, requested by that resolution.

In the communication received from Don Manuel H. de Aguirre, there are references to certain conferences between him and the Secretary of State, which appear to require some explanation.

The character in which Mr. Aguirre presented himself was that of a public agent from the Government of La Plata, and of private agent of that of Chili—his commissions from both simply qualified him as agent; but his letter from the Supreme Director Pueyrredon, to the President of the United States, requested that he might be received with the consideration due to his *diplomatic* character. He had no commission as a public minister of any rank, nor any full power to negotiate as such. Neither the letter, of which he was the bearer, nor he himself, at his first interviews with the Secretary of State, suggested that he was authorized to ask the acknowledgment of his Government as independent—a circumstance which derived additional weight from the fact, that his predecessor, Don Martin Thompson, had been dismissed by the Director Pueyrredon, for having transcended his powers, of which the letter brought by Mr. Aguirre, gave notice to the President.

It was some time after the commencement of the session of Congress, that he made this demand, as will be seen by the dates of his written communications to the Department. In the conferences held with him on that subject, among other questions which it naturally suggested, were those of the manner in which the acknowledgment of his Government, should it be deemed advisable, might be made? and what were the territories which he considered as forming the State or nation to be recognized? It was observed, that the manner in which the United States had been acknowledged as an independent power by France, was, by a treaty concluded with them, as an existing independent power, and in which each one of the States, then composing the Union, was distinctly named; that something of the same kind seemed to be necessary in the first acknowledgment of a new government, that some definite idea might be formed not of the precise boundaries, but of the general extent of the country thus recognized. He said the Government of which he desired the acknowledgment, was of the country which had, before the revolution, been the Vice Royalty of La Plata. It was then asked, whether that did not include Montevideo and the territory occupied by the Portuguese—the Banda Oriental, understood to be under the government of General Artigas, and several provinces, still in the undisputed possession of the Spanish Government. He said it did; but observed, that Artigas, though in hostility with the Government of Buenos Ayres, supported, however, the cause of independence of Spain—and that the Portuguese could not ultimately maintain their possession of Montevideo. It was after this that Mr. Aguirre wrote the letter, offering to enter into a negotiation for conducting a treaty; though admitting that he had no authority to that effect from his government. It may be proper to observe, that the mode of recognition by concluding a treaty, had not been suggested as the only one practicable or usual, but merely as that which had been adopted by France with the United States, and as offering the most convenient means of designating the extent of the territory acknowledged as a new dominion.

The remark to Mr. Aguirre, that if Buenos Ayres should be acknowledged as independent, others of the contending provinces would, perhaps, demand the same, had particular reference to the Banda Oriental. The inquiry was, whether General Artigas might not advance a claim of independence for those provinces, conflicting with that of Buenos Ayres for the whole Vice Royalty of La Plata? The Portuguese possession of Montevideo was noticed in reference to a similar question.

It should be added, that these observations were connected with others, stating the reasons upon which the present acknowledgment of the Government of La Plata, in any mode, was deemed by the President inexpedient, in regard as well to their interests as to those of the United States.

JOHN QUINCY ADAMS.

Presidential Message—Seminole War.

The last of the said Messages was read, and is as follows:

To the House of Representatives of the United States:

I now lay before Congress all the information in the possession of the Executive respecting the war with the Seminoles, and the measures which it has been thought proper to adopt for the safety of our fellow-citizens on the frontier exposed to their ravages. The enclosed documents show that the hostilities of this tribe were unprovoked, the offspring of a spirit long cherished, and often manifested towards the United States, and that, in the present instance, it was extending itself to other tribes, and daily assuming a more serious aspect. As soon as the nature and object of this combination were perceived, the Major General commanding the southern division of the troops of the United States, was ordered to the theatre of action, charged with the management of the war, and vested with the powers necessary to give it effect. The season of the year being unfavorable to active operations, and the recesses of the country affording shelter to these savages, in case of retreat, may prevent a prompt termination of the war, but it may be fairly presumed that it will not be long before this tribe, and its associates, receive the punishment which they have provoked and justly merited.

As almost the whole of this tribe inhabits the country within the limits of Florida, Spain was bound, by the Treaty of 1795, to restrain them from committing hostilities against the United States. We have seen with regret, that her Government has altogether failed to fulfil this obligation, nor are we aware that it made any effort to that effect. When we consider her utter inability to check, even in the slightest degree, the movements of this tribe, by her very small and incompetent force in Florida, we are not disposed to ascribe the failure to any other cause. The inability, however, of Spain to maintain her authority over the territory and Indians within her limits, and in consequence to fulfil the treaty, ought not to expose the United States to other and greater injuries. When the authority of Spain ceases to exist there, the United States have a right to pursue their enemy, on a principle of self-defence. In this instance, the right is more complete and obvious, because we shall perform only what Spain was bound to have performed herself. To the high obligations and privileges of this great and sacred right of self-defence, will the movement of our troops be strictly

confined. Orders have been given to the General in command, not to enter Florida, unless it be in pursuit of the enemy, and in that case to respect the Spanish authority wherever it is maintained, and he will be instructed to withdraw his forces from the province as soon as he shall have reduced that tribe to order, and secure our fellow-citizens, in that quarter, by satisfactory arrangements, against its unprovoked and savage hostilities in future.

JAMES MONROE.

WASHINGTON, *March* 25, 1818.

The said Messages and their accompanying documents, were ordered to lie on the table.

Spanish American Provinces.

The House having again resolved itself into a Committee of the Whole on the annual general appropriation bill, and Mr. CLAY's proposition to amend the bill by inserting a clause for appropriating $18,000 for the outfit and year's salary of a Minister to Buenos Ayres, yet pending, Mr. CLAY concluded, in a speech of three hours in length, the observations he yesterday commenced in support of his proposition; the whole of which is given entire, as follows:

Mr. CLAY said he rose, under feelings of deeper regret than he had ever experienced on any former occasion, inspired, principally, by the painful consideration, that he found himself, on the proposition which he meant to submit, differing from many highly esteemed friends, in and out of this House, for whose judgment he entertained the greatest respect. A knowledge of this circumstance had induced him to pause; to subject his own convictions to the severest scrutiny; and to revolve the question over and over again. But all his reflections had conducted him to the same clear result; and much as he valued those friends, great as his deference was for their opinions, he could not hesitate, when reduced to the distressing alternative of conforming his judgment to theirs, or pursuing the deliberate and matured dictates of his own mind. He enjoyed some consolation, for the want of their co-operation, from the persuasion that, if he erred on this occasion, he erred on the side of the liberty and the happiness of a large portion of the human family. Another, and, if possible, indeed a greater source of the regret to which he referred, was the utter incompetency which he unfeignedly felt to do any thing like adequate justice to the great cause of American independence and freedom, whose interests he wished to promote by his humble exertions, in this instance. Exhausted and worn down as he was, by the fatigue, confinement, and incessant application incident to the arduous duties of the honorable station he held, during a four months' session, he should need all that kind indulgence which had been so often extended to him by the House.

He begged, in the first place, to correct misconceptions, if any existed, in regard to his opinions. He was averse from war with Spain, or with any power. He would give no just cause of war to any power—not to Spain herself. He had seen enough of war, and of its calamities, when even successful. No country upon earth had more interest than this in cultivating peace, and avoiding war, as long as it was possible honorably to avoid it. Gaining additional strength every day, our numbers doubling in periods of twenty-five years, with an income outstripping all our estimates, and so great, as, after a war in some respects disastrous, to furnish results which carry astonishment, if not dismay, into the bosom of the states jealous of our rising importance, we had every motive for the love of peace. He could not, however, approve, in all respects, of the manner in which our negotiation with Spain had been conducted. If ever a favorable time existed for the demand, on the part of an injured nation, of indemnity for past wrongs, from the aggressor, such was the present time. Impoverished and exhausted at home, by the wars which have desolated the Peninsula, with a foreign war, calling for infinitely more resources in men and money, than she can possibly command, this is the auspicious period for insisting upon justice at her hands, in a firm and decided tone. Time is precisely what Spain now most wants. Yet what were we told by the President, in his Message, at the commencement of Congress? That Spain had procrastinated, and we acquiesced in her procrastination. And the Secretary of State, in the late communication with Mr. Onis, after ably vindicating all our rights, tells the Spanish Minister, with a good deal of *sang froid*, that we had patiently waited thirteen years for a redress of our injuries, and that it required no great effort to wait longer! He would have abstained from thus exposing our intentions. Avoiding the use of the language of menace, he would have required, in temperate and decided terms, indemnity for all our wrongs; for the spoliations upon our commerce; for the interruption of the right of depot at New Orleans, guaranteed by treaty; for the insults repeatedly offered to our flag; for the Indian hostilities which she was bound to prevent; for the belligerent use made of her ports and territories by our enemy, during the late war—and the instantaneous liberation of the free citizens of the United States, now imprisoned in her jails. Contemporaneous with that demand, without waiting for her final answer, and with a view to the favorable operation on her councils, in regard to our own peculiar interests, as well as in justice to the cause itself, he would recognize any established government in Spanish America. He would have left Spain to draw her own inferences from these proceedings, as to the ultimate steps which this country might adopt, if she longer withheld justice from us. And if she persevered in her iniquity, after we had conducted the negotiation in the manner he had endeavored to describe, he would then take up and decide the solemn question of peace or war, with the advantage of all the light shed

upon it by subsequent events and the probable conduct of Europe.

Spain had undoubtedly given us abundant and just cause of war. But, it was not every cause of war that should lead to war. War was one of those dreadful scourges that so shakes the foundations of society; overturns or changes the character of governments; interrupts or destroys the pursuits of private happiness; brings, in short, misery and wretchedness in so many forms; and at last is, in its issue, so doubtful and hazardous—that nothing but dire necessity can justify an appeal to arms. If we were to have war with Spain, he had, however, no hesitation in saying that no mode of bringing it about could be less fortunate than that of seizing, at this time, upon her adjoining province. There was a time, under other circumstances, when we might have occupied East Florida, with safety; had we then taken it, our posture in the negotiation with Spain, would have been totally different from what it is. But, we had permitted that time, not with his consent, to pass by unimproved. If we were to seize upon Florida, after a great change in those circumstances, and after declaring our intention to acquiesce in the procrastination desired by Spain, in what light should we be viewed by foreign powers, particularly Great Britain? We have already been accused of inordinate ambition, and of seeking to aggrandize ourselves by an extension, on all sides, of our limits. Should we not, by such an act of violence, give color to the accusation? No, Mr. Chairman, if we are to be involved in war with Spain, let us have the credit of disinterestedness; let us put her yet more in the wrong. Let us command the respect which is never withheld from those who act a noble and generous part. He hoped to communicate to the committee the conviction which he so strongly felt, that, adopting the amendment which he intended to propose, would not hazard, in the slightest degree, the peace of the country. But if that peace were to be endangered, he would infinitely rather it should be for our exerting the right, appertaining to every state, of acknowledging the independence of another state, than for the seizure of a province which sooner or later we must certainly acquire.

Mr. C. proceeded. In contemplating the great struggle in which Spanish America is now engaged, our attention is first fixed by the immensity and character of the country which Spain seeks again to subjugate. Stretching on the Pacific Ocean from about the 40th degree of north latitude, to about the 55th degree of south latitude, and extending from the mouth of the Rio del Norte (exclusive of East Florida) around the Gulf of Mexico, and along the South Atlantic to near Cape Horn, it is about 5,000 miles in length, and, in some places, near 3,000 in breadth. Within this vast region, we behold the most sublime and interesting objects of creation; the loftiest mountains, the most majestic rivers in the world; the richest mines of the precious metals; and the choicest productions of the earth. We behold there a spectacle still more interesting and sublime—the glorious spectacle of eighteen millions of people, struggling to burst their chains and to be free. When we take a little nearer and more detailed view, we perceive that nature has, as it were, ordained that this people and this country shall ultimately constitute several different nations. Leaving the United States on the north, we come to New Spain, or the Vice Royalty of Mexico on the south; passing by Guatemala, we reach the Vice Royalty of New Grenada, the late Captain Generalship of Venezuela, and Guyana, lying on the east side of the Andes. Stepping over the Brazils, we arrive at the United Provinces of La Plata, and, crossing the Andes, we find Chili on their west side, and further north, the Vice Royalty of Lima or Peru. Each of these several parts is sufficient in itself, in point of limits, to constitute a powerful state, and, in point of population, that which has the smallest contains enough to make it respectable. Throughout all the extent of that great portion of the world, which he had attempted thus hastily to describe, the spirit of revolt against the dominion of Spain had manifested itself. The revolution had been attended with various degrees of success in the several parts of Spanish America. In some it had been already crowned, as he would endeavor to show, with complete success, and in all he was persuaded that independence had struck such deep root, as that the power of Spain could never eradicate it. What were the causes of this great movement?

Three hundred years ago, upon the ruins of the thrones of Montezuma and the Incas of Peru, Spain erected the most stupendous system of colonial despotism that the world has ever seen—the most rigorous, the most exclusive. The great principle and object of this system has been to render one of the largest portions of the world exclusively subservient, in all its faculties, to the interests of an inconsiderable spot in Europe. To effectuate this aim of her policy, she locked Spanish America up from the rest of the world, and prohibited, under the severest penalties, any foreigner from entering any part of it. To keep the natives themselves ignorant of each other, and of the strength and resources of the several parts of her American possessions, she next prohibited the inhabitants of one Vice Royalty or Government from visiting those of another; so, that the inhabitants of Mexico, for example, were not allowed to enter the Vice Royalty of New Grenada. The agriculture of those vast regions was so regulated and restrained as to prevent all collision with the interests of the agriculture of the Peninsula. Where nature, by the character and composition of the soil, had commanded, the abominable system of Spain has forbidden the growth of certain articles. Thus, the olive and the vine, to which Spanish America is so well adapted, are prohibited wherever their culture could in-

terfere with the olive and the vine of the Peninsula. The commerce of the country, in the direction and objects of the exports and imports, is also subjected to the narrow and selfish views of Spain, and fettered by the odious spirit of monopoly existing in Cadiz. She has sought, by scattering discord among the several castes of her American population, and by a debasing course of education, to perpetuate her oppression. Whatever concerns public law, or the science of government, all writers upon political economy, or that tend to give vigor, and freedom, and expansion to the intellect, are prohibited. Gentlemen would be astonished by the long list of distinguished authors, whom she proscribes, to be found in Depon's and other works. A main feature in her policy is that which constantly elevates the European and depresses the American character. Out of upwards of 750 Viceroys and Captains General, whom she has appointed since the conquest of America, about eighteen only have been from the body of the American population. On all occasions she seeks to raise and promote her European subjects, and to degrade and humiliate the Creoles. Wherever in America her sway extends every thing seems to pine and wither beneath its baneful influence. The richest regions of the earth; man, his happiness and his education; all the fine faculties of his soul, are regulated, and modified, and moulded, to suit the execrable purposes of an inexorable despotism.

Such is a brief and imperfect picture of the state of things in Spanish America in 1808, when the famous transactions of Bayonne occurred. The King of Spain and the Indies (for Spanish America had always constituted an integral part of the Spanish empire) abdicated his throne and became a voluntary captive. Even at this day, one does not know whether he should most condemn the baseness and perfidy of the one party, or despise the meanness and imbecility of the other. If the obligation of obedience and allegiance existed on the part of the colonies to the King of Spain, it was founded on the duty of protection which he owed them. By disqualifying himself from the performance of this duty, they became released from that obligation. The monarchy was dissolved, and each integral part had a right to seek its own happiness by the institution of any new government adapted to its wants. Joseph Bonaparte, the successor *de facto* of Ferdinand, recognized this right on the part of the colonies, and recommended them to establish their independence. Thus, upon the ground of strict right; upon the footing of a mere legal question, governed by forensic rules, the colonies, being absolved by the acts of the parent country from the duty of subjection to it, had an indisputable right to set up for themselves. But Mr. C. took a broader and bolder position. He maintained that an oppressed people were authorized, whenever they could, to rise and break their fetters. This was the great principle of the English Revolution. It was the great principle of our own. *Vattel*, if authority were wanting, expressly supports this right. We must pass sentence of condemnation upon the founders of our liberty —say that they were rebels, traitors, and that we are at this moment legislating without competent powers, before we could condemn the cause of Spanish America. Our Revolution was mainly directed against the mere theory of tyranny. We have suffered comparatively but little; we had, in some respects, been kindly treated; but our intrepid and intelligent fathers saw, in the usurpation of the power to levy an inconsiderable tax, the long train of oppressive acts that was to follow. They rose; they breasted the storm; they conquered our freedom. Spanish America, for centuries, has been doomed to the practical effects of an odious tyranny. If we were justified, she is more than justified.

Mr. C. said he was no propagandist. He would not seek to force upon other nations our principles and our liberty, if they did not want them. He would not disturb the repose even of a detestable despotism. But if an abused and oppressed people willed their freedom; if they sought to establish it; if, in truth, they had established it, we had a right, as a sovereign power, to notice the fact, and to act as circumstances and our interest required. He would say, in the language of the venerated Father of his Country: "Born in a land of liberty, my anxious recollections, my sympathetic feelings, and my best wishes, are irresistibly excited, whensoever, in any country, I see an oppressed nation unfurl the banners of freedom."* For his own part, Mr. C. said, that whenever he thought of Spanish America, the image irresistibly forced itself upon his mind of an elder brother, whose education had been neglected, whose person had been abused and maltreated, and who had been disinherited by the unkindness of an unnatural parent. And when he contemplated the glorious struggle which that country was now making, he thought he beheld that brother rising, by the power and energy of his fine native genius, to the manly rank which nature and nature's God intended for him.

If Spanish America were entitled to success from the justness of her cause, we had no less reason to wish that success from the horrible character which the royal arms had given to the war. More atrocities than those which had been perpetrated during its existence were not to be found even in the annals of Spain herself. And history, reserving some of her blackest pages for the name of Morillo, is prepared to place him alongside of his great prototype, the infamous desolator of the Netherlands. He who has looked into the history of the conduct of this war, is constantly shocked at the revolting scenes which it portrays; at the refusal, on the part of the commanders of the royal forces, to

* Washington's answer to the French Minister's address, on his presenting the colors of France, in 1796.

treat, on any terms, with the other side; at the denial of quarters; at the butchery, in cold blood, of prisoners; at the violation of flags, in some cases, after being received with religious ceremonies; at the instigation of slaves to rise against their owners; and at acts of wanton and useless barbarity. Neither the weakness of the other sex, nor the imbecility of old age, nor the innocence of infants, nor the reverence due to the sacerdotal character, can stay the arm of royal vengeance. On this subject he begged leave to trouble the committee with reading a few passages from a most authentic document, the manifesto of the Congress of the United Provinces of Rio de la Plata, published in October last. This was a paper of the highest authority; it was an appeal to the whole world; it asserted facts of notoriety in the face of the whole world. It was not to be credited that the Congress would come forward with a statement which was not true, when the means, if it were false, of exposing their fabrications, must be so abundant, and so easy to command. It was a document, in short, that stood upon the same footing of authority with our own papers, promulged during the Revolution by our Congress. He would add, that many of the facts which it affirmed, were corroborated by most respectable historical testimony, which was in his own possession.

[Mr. C. here read the following passages from the manifesto:]

"Memory shudders at the recital of the horrors that were then committed by Goyeneche, in Cochabamba. Would to heaven it were possible to blot from remembrance the name of that ungrateful and blood-thirsty American; who, on the day of his entry, ordered the virtuous Governor and Intendant, Antesana, to be shot; who, beholding from the balcony of his house that infamous murder, cried out with a ferocious voice to the soldiers, that they must not fire at the head, because he wanted it to be affixed to a pole; and who, after the head was taken off, ordered the cold corpse to be dragged through the streets; and, by a barbarous decree, placed the lives and fortunes of the citizens at the mercy of his unbridled soldiery, leaving them to exercise their licentious and brutal sway during several days! But those blind and cruelly capricious men (the Spaniards) rejected the mediation of England, and despatched rigorous orders to all the Generals to aggravate the war, and to punish us with more severity. The scaffolds were everywhere multiplied, and invention was racked to devise means for spreading murder, distress, and consternation.

"Thenceforth they made all possible efforts to spread division among us, to incite us to mutual extermination; they have slandered us with the most atrocious calumnies, accusing us of plotting the destruction of our holy religion, the abolition of all morality, and of introducing licentiousness of manners. They wage a religious war against us, contriving a thousand artifices to disturb and alarm the consciences of the people, making the Spanish bishops issue decrees of ecclesiastical condemnation, public excommunications, and disseminating, through the medium of some ignorant confessor, fanatical doctrines in the tribunal of penitence. By means of these religious discords they have divided families against themselves; they have caused disaffection between parents and children; they have dissolved the tender ties which unite husband and wife; they have spread rancor and implacable hatred between brothers, most endeared, and they have presumed to throw all nature into discord.

"They have adopted the system of murdering men indiscriminately to diminish our numbers; and, on their entry into towns, they have swept off all, even the market people, leading them to the open squares, and there shooting them one by one. The cities of Chuquisaca and Cohabamba have more than once been the theatres of these horrid slaughters.

"They have intermixed with their troops soldiers of ours whom they had taken prisoners, carrying away the officers in chains to garrisons where it is impossible to preserve health for a year; they have left others to die in their prisons of hunger and misery, and others they have forced to hard labor on the public works. They have exultingly put to death our bearers of flags of truce, and have been guilty of the blackest atrocities to our chiefs, after they had surrendered, as well as to other principal characters, in disregard of the humanity with which we treated prisoners; as a proof of it, witness the deputy Mutes of Potosi, the Captain General Pumacagua, General Augulo, and his brother Commandant Munecas, and other partisan chiefs, who were shot in cold blood, after having been prisoners for several days.

"They took a brutal pleasure in cropping the ears of the natives of the town of Villegrande, and sending a basket full of them as presents to the headquarters. They afterwards burnt that town, and set fire to thirty other populous towns of Peru, and worse than the worst of savages, shutting the inhabitants up in the houses, before setting them on fire, that they might be burnt alive.

"They have not only been cruel and unsparing in their mode of murder, but they have been void of all morality and public decency, causing aged ecclesiastics and women to be lashed to a gun and publicly flogged, with the abomination of first having them stripped, and their nakedness exposed to shame, in the presence of their troops.

"They established an inquisitorial system in all these punishments; they have seized on peaceable inhabitants, and transported them across the seas to be adjudged for suspected crimes, and they have put a great number of citizens to death everywhere without accusation or the form of a trial.

"They have invented a crime of unexampled horror, in poisoning our water and provisions, when they were conquered by General Pineto at La Paz, and in return for the kindness with which he treated them, after they had surrendered at discretion, they had the barbarity to blow up the headquarters, under which they had constructed a mine, and prepared a train beforehand.

"He has branded us with the stigma of rebels the moment he returned to Madrid; he refused to listen to our complaints, or to receive our supplications; and as an act of extreme favor, he offered us a pardon. He confirmed the Viceroys, Governors, and Generals, whom he found actually glutted with carnage; he declared us guilty of a high misdemeanor for having dared to frame a constitution for our own government, free from the control of a deified, absolute, and tyrannical power, under which we had

groaned three centuries—a measure that could be offensive only to a Prince, an enemy to justice and beneficence, and consequently unworthy to rule over us.

"He then undertook, with the aid of his Ministers, to equip large military armaments to be directed against us. He has caused numerous armies to be sent out to consummate the work of devastation, fire, and plunder.

"He has sent his Generals, with certain decrees of pardon, which they publish to deceive the ignorant, and induce them to facilitate their entrance into towns; whilst, at the same time, he has given them other secret instructions, authorizing them, as soon as they should get possession of a place, to hang, burn, confiscate, and sack; to encourage private assassinations, and to commit every species of injury in their power against the deluded beings who had confided in his pretended pardon. It is in the name of Ferdinand of Bourbon, that the heads of patriot officers, prisoners, are fixed up in the highways, that they beat and stoned to death a commandant of light troops, and that, after having killed Colonel Camugo, in the same manner, by the hands of the indecent Centeno, they cut off his head, and sent it as a present to General Pezuela, telling him it was a miracle of the Virgin of the Carmelites."

In the establishment of the independence of Spanish America, the United States have the deepest interest. He had no hesitation in asserting his firm belief, that there was no question, in the foreign policy of this country, which had ever arisen, or which he could conceive as ever occurring, in the decision of which we had so much at stake. This interest concerned our politics, our commerce, our navigation. There could not be a doubt that Spanish America, once independent, whatever might be the form of the governments established in its several parts, those governments would be animated by an American feeling, and guided by an American policy. They would obey the laws of the system of the New World, of which they would compose a part, in contradistinction to that of Europe. Without the influence of that vortex in Europe, the balance of power between its several parts, the preservation of which had so often drenched Europe in blood, America is sufficiently remote to contemplate the new wars which are to afflict that quarter of the globe, as a calm, if not a cold and indifferent, spectator. In relation to those wars, the several parts of America will generally stand neutral. And as, during the period when they rage, it would be important that a liberal system of neutrality should be adopted and observed, all America will be interested in maintaining and enforcing such a system. The independence, then, of Spanish America is an interest of primary consideration. Next to that, and highly important in itself, was the consideration of the nature of their governments. That was a question, however, for themselves. They would, no doubt, adopt those kinds of governments which were best suited to their condition, best calculated for their happiness. Anxious as he was that they should be free governments, we had no right to prescribe for them. They were, and ought to be, the sole judges for themselves. He was strongly inclined to believe that they would in most, if not all, parts of their country, establish free governments. We were their great example. Of us they constantly spoke as of brothers, having a similar origin. They adopted our principles, copied our institutions, and, in some instances, employed the very language and sentiments of our revolutionary papers. [Here Mr. C. read the following passage from the same manifesto before cited:]

"Having, then, been thus impelled by the Spaniards and their King, we have calculated all the consequences, and have constituted ourselves independent, prepared to exercise the right of nature to defend ourselves against the ravages of tyranny, at the risk of our honor, our lives, and fortune. We have sworn to the only King we acknowledge, the Supreme Judge of the World, that we will not abandon the cause of justice; that we will not suffer the country which he has given us to be buried in ruins, and inundated with blood, by the hands of the executioner," &c.

But it is sometimes said that they are too ignorant and too superstitious to admit of the existence of free government. This charge of ignorance is often urged by persons themselves actually ignorant of the real condition of that people. He denied the alleged fact of ignorance; he denied the inference from that fact, if it were true, that they wanted capacity for free government; and he refused his assent to the further conclusion, if the fact were true and the inference just, that we were to be indifferent to their fate. All the writers of the most established authority, Depons, Humboldt, and others, concur in assigning to the people of Spanish America, great quickness, genius, and particular aptitude for the acquisition of the exact sciences, and others which they have been allowed to cultivate. In astronomy, geology, mineralogy, chemistry, botany, &c., they are allowed to make distinguished proficiency. They justly boast of their Abzate, Velasquez, and Gama, and other illustrious contributors to science. They have nine Universities, and in the city of Mexico it is affirmed, by Humboldt, that there are more solid scientific establishments than in any city even of North America. He would refer to the message of the Supreme Director of La Plata, which he would hereafter have occasion to use for another purpose, as a model of fine composition of a State paper, challenging a comparison with any, the most celebrated that ever issued from the pens of Jefferson or Madison. Gentlemen would egregiously err if they formed their opinions of the present moral condition of Spanish America, from what it was under the debasing system of Spain. The eight years' revolution in which it has been engaged, has already produced a powerful effect.

Education had been attended to, and genius developed. [Here Mr. C. read a passage from the Colonial Journal, published last Summer in Great Britain, where a disposition to exaggerate on that side of the question could hardly

be supposed to exist.] The fact was not, therefore, true, that the imputed ignorance existed; but, if it did, he repeated that he disputed the inference. It was the doctrine of thrones, that man was too ignorant to govern himself. Their partisans assert this incapacity in reference to all nations; if they cannot command universal assent to the proposition, it is then demanded as to particular nations; and our pride and our presumption too often make converts of us. Mr. C. contended that it was to arraign the dispositions of Providence himself, to suppose that he had created beings incapable of governing themselves, and to be trampled on by kings. He contended that self-government was the natural government of man, and he referred to the aborigines of our own land. If he were to speculate in hypotheses unfavorable to human liberty, his should be founded rather upon the vices, refinements, or density of population. Crowded together in compact masses, even if they were philosophers, the contagion of the passions is communicated and caught, and the effect too often, he admitted, was the overthrow of liberty. Dispersed over such an immense space as that on which the people of Spanish America were spread, their physical, and he believed, also, their moral condition, both favored liberty.

With regard to their superstition, he said, they worshipped the same God with us. Their prayers were offered up in their temples to the same Redeemer, whose intercession we expected to save us. All religions, united with Government, were more or less inimical to liberty. All, separated from Government, were compatible with liberty. If the people of Spanish America had not already gone as far, in religious toleration, as we had, the difference in their condition from ours should not be forgotten. Every thing was progressive. And in time he hoped to see them imitating, in this respect, our example. But grant that the people of Spanish America are ignorant, and incompetent for free government, to whom is that ignorance to be ascribed? Is it not to the execrable system of Spain, which she seeks again to establish and to perpetuate? So far from chilling our hearts, it ought to increase our solicitude for our unfortunate brethren. It ought to animate us to desire the redemption of the minds and the bodies of unborn millions from the brutifying effects of a system, whose tendency is to stifle the faculties of the soul, and to degrade man to the level of beasts. He would invoke the spirits of our departed fathers. Was it for yourselves only that you nobly fought? No, no. It was the chains that were forging for your posterity that made you fly to arms, and, scattering the elements of those chains to the winds, you transmitted to us the rich inheritance of liberty.

Mr. C. continued—having shown that the cause of the patriots was just, and that we had a great interest in its successful issue, he would next inquire what course of policy it became us to adopt. He had already declared that to be one of strict and impartial neutrality. It was not necessary for their interest, it was not expedient for our own, that we should take part in the war. All they demanded of us was a just neutrality. It was compatible with this pacific policy—it was required by it, that we should recognize any established Government, if there were any established Government in Spanish America. Recognition alone, without aid, was no just cause of war. With aid it was, not because of the recognition, but because of the aid, as aid without recognition was cause of war. The truth of these propositions he would maintain upon principle, by the practice of other States, and by the usage of our own. There was no common tribunal among the nations to pronounce upon the fact of the sovereignty of a new State. Each power must and does judge for itself. It was an attribute of sovereignty so to judge. A nation, in exerting this incontestable right—in pronouncing upon the independence, in fact, of a new State, takes no part in the war. It gives neither men, nor ships, nor money. It merely pronounces that in so far as it may be necessary to institute any relations, or to support any intercourse, with the new power, that power is capable of maintaining those relations and authorizing that intercourse.—Martens and other publicists lay down these principles.

When the United Provinces formerly severed themselves from Spain, it was about eighty years before their independence was finally recognized by Spain. Before that recognition, the United Provinces had been received by all the rest of Europe into the family of nations. It is true that a war broke out between Philip and Elizabeth, but it proceeded from the aid which she determined to give, and did give to Holland. In no instance, he believed, could it be shown, from authentic history, that Spain made war upon any power, on the sole ground that such power had acknowledged the independence of the United Provinces.

In the case of our own Revolution, it was not until after France had given us aid, and had determined to enter into a treaty of alliance with us—a treaty by which she guaranteed our independence—that England declared war. Holland also was charged by England with favoring our cause, and deviating from the line of strict neutrality. And when it was perceived that she was, moreover, about to enter into a treaty with us, England declared war. Even if it were shown that a proud, haughty, and powerful nation, like England, had made war upon other provinces, on the ground of a mere recognition, the single example could not alter the public law, or shake the strength of a clear principle.

But what had been our own uniform practice. We constantly proceeded on the principle. that the government *de facto* was that which we could alone notice. Whatever from of government any society of people adopt;

whoever they acknowledge as their sovereign, we consider that government or that sovereign as the one to be acknowledged by us. We have invariably abstained from assuming a right to decide in favor of the sovereign *de jure*, and against the sovereign *de facto*. That is a question for the nation in which it arises to determine. And, so far as we are concerned, the sovereign *de facto* is the sovereign *de jure*. Our own revolution stands on the basis of the right of a people to change their rulers. He did not maintain that every immature revolution—every usurper, before his power was consolidated, was to be acknowledged by us; but that as soon as stability and order were maintained, no matter by whom, we always had considered and ought to consider the actual as the true Government. General Washington, Mr. Jefferson, Mr. Madison, had all, whilst they were respectively Presidents, acted on these principles.

In the case of the French Republic, General Washington did not wait until some of the crowned heads of Europe should set him the example of acknowledging it, but accredited a Minister at once. And it is remarkable that he was received before the Government of the Republic was considered as established. It will be found, in Marshall's Life of Washington, that, when it was understood that a Minister from the French Republic was about to present himself, President Washington submitted a number of questions to his Cabinet for their consideration and advice, one of which was, whether, upon the reception of the Minister, he should be notified that America would suspend the execution of the treaties between the two countries until France had an established Government. General Washington did not stop to inquire whether the descendants of St. Louis were to be considered as the legitimate sovereigns of France, and if the revolution was to be regarded as unauthorized resistance to their sway. He saw France, in fact, under the Government of those who had subverted the throne of the Bourbons, and he acknowledged the actual Government. During Mr. Jefferson's and Mr. Madison's Administration, when the Cortes of Spain and Joseph Bonaparte respectively contended for the Crown, those enlightened statesmen said, we will receive a Minister from neither party; settle the question between yourselves, and we will acknowledge the party that prevails. We have nothing to do with your feuds; whoever all Spain acknowledges as her sovereign, is the only sovereign with whom we can maintain any relations. Mr. Jefferson, it is understood, considered whether he should not receive a Minister from both parties, and finally decided against it because of the inconveniences to this country which might result from the double representation of another power. As soon as the French armies were expelled from the Peninsula, Mr. Madison, still acting on the principle of the Government *de facto*, received the present Minister from Spain. During all the phases of the French Government — Republic, Directory, Consuls, Consul for life, Emperor, King, Emperor again, King—our Government has uniformly received the Minister.

If, then, there be an established Government in Spanish America, deserving to rank among the nations, we were morally and politically bound to acknowledge it, unless we renounced all the principles which ought to guide, and which hitherto had guided, our councils. Mr. C. then undertook to show, that the united provinces of the Rio de la Plata was such a Government. Its limits, he said, extending from the South Atlantic Ocean to the Pacific, embraced a territory equal to that of the United States, certainly equal to it, exclusive of Louisiana. Its population was about three millions, more than equal to ours at the commencement of our Revolution. That population was a hardy, enterprising, and gallant population. The establishments of Montevideo and Buenos Ayres had, during different periods of their history, been attacked by the French, Dutch, Danes, Portuguese, English, and Spanish; and such was the martial character of the people, that, in every instance, the attack had been repulsed. In 1807, General Whitlocke, commanding a powerful English army, was admitted, under the guise of a friend, into Buenos Ayres, and, as soon as he was supposed to have demonstrated inimical designs, he was driven by the native and unaided force of Buenos Ayres from the country. Buenos Ayres had, during now nearly eight years, been, in point of fact, in the enjoyment of self-government. The capital, containing more than sixty thousand inhabitants, has never been once lost. As early as 1811, the regency of Old Spain made war upon Buenos Ayres, and the consequence subsequently was, the capture of a Spanish army in Montevideo, equal to that of Burgoyne. This Government has now in excellent discipline, three well-appointed armies, with the most abundant *materiel* of war; the army of Chili, the army of Peru, and the army of Buenos Ayres. The first, under San Martin, has conquered Chili; the second is penetrating in a Northwestern direction from Buenos Ayres, into the vice-royalty of Peru; and, according to the last accounts, had reduced the ancient seat of empire of the Incas. The third remains at Buenos Ayres to oppose any force which Spain may send against it.

Are we not bound, then, upon our own principles, to acknowledge this new Republic? If we do not, who will? Are we to expect that Kings will set us the example of acknowledging the only Republic on earth except our own? We receive, promptly receive, a Minister from whatever King sends us one. From the great powers and the little powers we accredit Ministers. We do more: we hasten to reciprocate the compliment; and anxious to manifest our gratitude for royal civility, we send for a Minister (as in the instance of Sweden and the Netherlands) of the lowest grade, one of the highest

rank recognized by our laws. We were the natural head of the American family. He would not intermeddle in the affairs of Europe. We wisely kept aloof from their broils. He would not even intermeddle in those of other parts of America, farther than to exert the incontestable rights appertaining to us as a free, sovereign, and independent power; and, he contended, that the accrediting of a Minister from the new Republic was such a right. We were bound to receive their Minister, if we meant to be really neutral. If the Royal belligerent were represented and heard at our Government, the Republican belligerent ought also to be heard. Otherwise, one party would be in the condition of the poor patriots who were tried *ex parte* the other day in the Supreme Court, without counsel, without friends. Give M. Onis his *congé*, or receive the Republican Minister. Unless you do so, your neutrality is nominal.

There was great reason, Mr. C. contended, from the peculiar character of the American Government, in there being a perfect understanding between the legislative and Executive branches, in relation to the acknowledgment of a new power. Everywhere else the power of declaring war resided with the Executive. Here it was deposited with the Legislature. If, contrary to his opinion, there were even a risk that the acknowledgment of a new State might lead to war, it was advisable that the step should not be taken, without a previous knowledge of the will of the war-making branch. He was disposed to give to the President all the confidence which he must derive from the unequivocal expression of our will. This expression he knew might be given in the form of an abstract resolution, declaratory of that will; but he preferred, at this time, proposing an act of practical legislation. And if he had been so fortunate as to communicate to the committee, in any thing like that degree of strength in which he entertained them, the convictions that the cause of the patriots was just; that the character of the war, as waged by Spain, should induce us to wish them success; that we had a great interest in that success; that this interest, as well as our neutral attitude, required us to acknowledge any established Government in Spanish America; that the united provinces of the river Plata was such a Government; that we might safely acknowledge its independence, without danger of war from Spain, from the allies, or from England; and that, without unconstitutional interference with the Executive power, with peculiar fitness, we might express, in an act of appropriation, our sentiments, leaving him to the exercise of a just and responsible discretion, he hoped the committee would adopt the proposition which he now had the honor of presenting to them, after a respectful tender of his acknowledgments for their attention and kindness, during, he feared, the tedious period he had been so unprofitably trespassing upon their patience. He offered the following amendment to the bill

"For one year's salary, and an outfit to a Minister to the United Provinces of the Rio de La Plata, the salary to commence, and the outfit to be paid, whenever the President shall deem it expedient to send a Minister to the said United Provinces, a sum not exceeding eighteen thousand dollars."

When Mr. CLAY had concluded,

Mr. FORSYTH said, that before entering into the examination of the subject before the committee, he would detain them for a moment by a remark or two on a suggestion that had fallen from the Speaker, so remotely connected with the question, that he should probably forget it if he omitted to notice it then. It had been said that Ministers were sent from the United States to all the crowned heads in Europe who had Ministers here. A Chargé d'Affaires to the United States was reciprocated by a Minister Plenipotentiary to the Court from whence he came, and the Courts of Sweden, Holland, and Prussia, had been particularly named. The last is one to which a Minister was expected to be sent, particular information of which fact Mr. F. was supposed to possess. But for this personal allusion he should not have felt himself compelled to refer to this subject. [Mr. CLAY explained.] Mr. F. understood perfectly well that there was no unfriendly spirit in the remark, it was an allusion to an event which was expected to occur, but upon what foundation he had been at a loss to conjecture. Certain it was, he had no intimation that this or any other diplomatic appointment would be offered to him, and it was equally certain that he had not solicited any. An idle rumor was in circulation that he was to be sent abroad, where, the persons circulating it, had not determined. He hoped to be consulted as to the place of exile, when he was to be sent into honorable banishment. The Administration had not, he believed, determined to send a Minister to Prussia, of any grade. There was a mistake as to the fact, in the case of Holland. The Government of the Netherlands had sent a Minister of the first grade to the United States, before Mr. Eustis went to the Hague. At present there was only a Chargé here, and it was altogether probable that the interest of the United States would not require a representative of a different character in the Netherlands. The appointments to the Hague and to Sweden, had been made by Mr. Madison, under circumstances requiring them. With regard to Sweden, the motive for the original appointment was well known. It was made at a period when, from the peculiar situation of Europe, Sweden was an important power. She was the keystone of the arch of the great confederation against France, and it was part of our policy at that period to stand well with all the powers in the north of Europe. The restoration of peace certainly rendered this mission of minor importance; and when the Minister of the United States came home, it was not expected that he would again return to fix his official residence at Stockholm. Why he returned to

Sweden was as well known to the honorable Speaker as to any member of the House. Mr. F. was confident that he would not remain there.

Was the importance of the amendment proposed to be estimated by the interest it excited, and the extraordinary manner in which it had been presented, few subjects of equal magnitude had ever been submitted to the decision of the National Legislature. That the deep interest felt in the fate of the measure, was not confined to those who were to decide upon it, was apparent from the crowded benches of the Hall and the overflowing gallery. For ourselves, the Throne of Grace had been that morning addressed to purify our hearts and enlighten our understandings for its correct decision. Every one must be struck by the whimsical contrast between the real and factitious importance of the proposition. To judge from the extraordinary exertions of the Speaker, from the ground over which he travelled and the variety of objects noticed by him, it would seem he believed it worthy of the exertions of all his industry, ability, and enthusiasm—that the freedom and happiness of eighteen millions of people were, in truth, involved in its decision. Mr. F. had in vain tasked his imagination to discover that such consequences could follow from it. He could not perceive the miraculous influence of appropriating eighteen thousand dollars for an outfit and salary for a Minister to La Plata, to commence when, in the discretion of the President, a Minister should be sent to that Government. All the facts stated by the Speaker might be admitted, the arguments founded upon them might be considered as conclusive, still the amendment proposed ought not to be adopted. How obvious, then, must be the propriety of rejecting it, when the facts were disputable and the reasoning inconclusive. Admitting the independence of La Plata to be established; that it was the right and the duty of the United States to recognize that independence; that war with Spain or any other power would not follow; that our interest and our honor required this step to be taken—still the amendment ought to be rejected. If recognition is made, it is to be done in the United States. We are to acknowledge their independence; to send a Minister to La Plata is to ask them to acknowledge ours. A Minister must be sent to, and accredited by this Government. It had not as yet appeared that the Government of La Plata desired or expected us to make such an acknowledgment; at least no one with requisite authority was known to have been sent to this country for the purpose of asking such a favor. Another objection, not less obvious, was presented by the constitutional division of the powers of the Government. Heretofore the President and Senate were left to the exclusive management of the foreign intercourse of the United States. Ministers were received from other powers, and sent from this country to other Governments, with whom political or commercial interest required us to negotiate, and the House of Representatives contented itself with its constitutional check upon the exercise of this authority; satisfied that they could at all times prevent its improvident exertion, by withholding appropriations from those missions the public interest did not require. This, however, proposes a new system; this House, instead of checking, is made to stimulate the Executive to a further extension of its patronage. This new system might have its conveniency, but these would be found, on examination, to be personal conveniences to aspiring and designing members of the Legislative body, at the expense of the general welfare. The suggestion that, under the present extraordinary circumstances of the world, the expression of the public opinion by the Representatives of the people ought to precede the movements of the Executive, was not entitled to the weight which was given to it. The President does not require to be told that the Representatives of the people who selected him to preside over their Government, are prepared at all times, and at every hazard, to do their duty. He dare not doubt that he will be supported in every measure the interest and honor of the nation require him to adopt. Were it really true that the Executive Magistrate had discovered a criminal indifference on this subject, Mr. F. said he would be among the most eager to express such an opinion in the only form in which an opinion could be expressed, by a resolution of the House—boldly and openly declaring its dislike of the course which had been pursued, and recommending the necessary change. The amendment to an appropriation bill in the form proposed did not convey such an opinion. The President might conjecture that such was the intention of the Legislature; yet, even while forming this conjecture, it would be necessary for him to look beyond the act to the motives assigned to those who advocated it. As a measure of ordinary policy the proposition was inadmissible; as an extraordinary measure it was indefensible. It was recommended as a bold, independent, manly expression of the public sentiment, placing the House of Representatives in the front rank in the march of the Government on a dangerous and untried field; it was, in reality, unmeaning and insignificant in its character; and while it proceeds by hinting to the President the course he should pursue, it warily shelters the House from all responsibility for the consequences behind the Executive discretion. If our interference is necessary, let us act effectually; marking the steps necessary to be taken, and taking the responsibility for the result—claiming all the honor, and bearing all the disaster. Let us not at least pretend to give the Executive a discretion already possessed, thus diminishing his responsibility without adding to our own.

Mr. F. could not but remark an apparent contradiction in the address of the Speaker on

this subject of the declaration, made a few days since in a discussion of the bill reported by the Committee on Foreign Relations. He had censured with much asperity the patience discovered by the Government in its correspondence with the Spanish Minister, and thanked his God that he did not possess that Job-like attribute. In the address of yesterday we were told that he was opposed to war with Spain—would do no act which would give her just cause of war—would not violently seize any of her possessions. It would seem that, impatient as the honorable Speaker may be at the situation of the dispute with Spain, he is not disposed to do any act calculated to bring it to an immediate determination. The difference between the Administration and himself is, that they would wait with patience, and he impatiently, the change in the Spanish councils. The honorable gentleman would pardon the notice of a species of inconsistency in the course he wished to pursue. He believed that Spain ought to be pressed; that the moment was peculiarly fortunate, and ought not to be lost. How was this pressing to be made? By argument? That had been tried in vain. Certainly not. By threats never intended to be executed? The character of the Speaker forbids such a supposition. Not by war; that had been disclaimed. Not by any means that would give Spain justifiable cause of war. These also had been rejected. It was difficult to imagine how the object was to be accomplished, unless a subsequent suggestion furnished a key to the mystery. He would take the step in relation to the Spanish colonies we might rightfully take, and leave Spain to do as she thought proper. If she continued to refuse to do us justice, the important question of peace or war was then to be decided. If Mr. F. understood the policy recommended, it was to do rightfully all we could to tempt Spain to declare war against us; and if we failed in all these, then we would declare war against Spain. Thus, while disclaiming all idea of war, the Speaker looked constantly to that issue. The sources of temptation were in the dispute with her colonies; we were first to recognize them, what follows is easily foreseen. The motive for this abandonment of our own quarrel, to engage in war on account of Spanish American governments, was the apprehension; if we moved in our own case, we should be justly charged with a thirst of aggrandizement—excite the jealousy, perhaps the hostility, of some other power, and enjoy the sympathy of none. If an interference with Spanish affairs is the ground of dispute, we shall have the sympathies of the world on our side, and excite neither jealousy nor hostility in any of the nations of Europe. Mr. F. believed, with the Speaker, that the present was an auspicious moment for a settlement of the Spanish controversy; that it ought not to be suffered to escape. He was not for war, but for such a movement, in our own dispute, as would place the means of indemnity in our possession, as should enable the Government to do justice to its injured citizens, whatever might be the future condition of the Spanish monarchy. It was war if Spain chose to consider it so; it was short of war if she desired to remain at peace. The jealousy or hostility of foreign powers could not be reasonably excited by such a course. Sympathy was out of the question. No European Government felt it for the United States; they do not fear our power, but they dread our example; they do not apprehend danger from our physical strength, but tremble at the moral influence of our institutions. The course of the Speaker was the one best calculated to excite all their jealousies and hostilities; to confirm an idea, Spain had been at all times exerting herself to enforce, that we were the cause of the disturbances in her possessions, the aiders and abettors of her revolting subjects, and on all occasions ready to sow discord among the subjects of Princes, and to jeopardize the safety of the colonial dependencies of European powers. War with Spain was no bugbear to him; but, if it was commenced, it should be in our own quarrel, and should not be mixed with baser matter. The Administration occupied the middle ground between the Speaker and himself, probably the safest and most congenial to the wishes and the interests of the people. There was one point on which there would be no dispute between them; the policy of the Government was by each of them preferred to the policy recommended by the other. Mr. F. was, however, justified, by the opinion of the Speaker, in believing that a war would not be the consequence of either project. "Spain would not, and could not, declare war against us, from the state of her finances, and the ruin of her resources." The wisdom of the two plans was, therefore, to be tested by the benefits which we would or should derive from complete success, without the hazard of a contest for either.

The amendment was advocated as a recognition of the independence of La Plata. The argument of the honorable mover was directed to this point; and Mr. F. was well aware that one question was frequently argued, and another decided, and that the vote on the decision was sometimes determined on the merits of the question discussed. Considering it as an open proposition to recognize, he was content to meet it, and that it should succeed or fail on the propriety of refusing or making an immediate recognition. Where was the motive for this step? What beneficial consequences will flow from it to La Plata or the United States? What benefits, commercial or political, will accrue? The commerce between the people of this Government and that of the revolutionary La Plata, was free and unrestrained. Our citizens enjoyed all that they asked in the ports of Buenos Ayres, and the people of La Plata were admitted to all the rights and hospitalities that are shown to any foreigners in the waters of the United States. Arms, ammunition, all the pro-

duct of our agriculture and industry, that their wants may require, are freely purchased and transported in their own or American vessels, without delay or molestation. Their vessels, armed and equipped for war, are admitted without scruple into our ports, and treated with a kindness they have but too frequently abused. Are there any important political results to proceed from this step to either party? To us there certainly are none; to them the only possible advantage would be the probability that our example would be followed by the rest of the world. Mr. F. spoke on the supposition that no war with Spain was produced by this act. Our recognition was better calculated to excite the jealousy and prejudice of despotic Governments against this new power, than to produce a similar recognition of their claims to a place in the family of nations; better calculated to produce a combination of despotic power, to their ruin, than a friendly aid in the accomplishment of their independence. This acknowledgment was useless to them politically and commercially. All the practical benefits arising from it, were enjoyed so long as we considered their independence as existing without pronouncing a decision upon that point disputed by them with Spain. Where was the motive to be found to justify this improvident hurry to the useless acknowledgment of a Government whose independence depended wholly upon its own exertions? That could not be aided in its progress by such a declaration, unless accompanied by substantial aid; an aid even the sanguine gentleman from Kentucky did not propose to give. It was said, however, that we ought to be the first to acknowledge a sister Republic. If we did not, who would? With more than ordinary diligence, Mr. F. had endeavored to find the freedom and liberality in the frame and institutions of this new Government, which would entitle it to this name. He had sought for them in vain. There was a Congress and a Supreme Director; a Congress, the Speaker has said, chosen somewhat like our own. Mr. F. would have rejoiced to learn in what this resemblance consisted. If the Congress were chosen by the people, he had been deceived by the Outline of the Revolution in Spanish America; a work to which he referred on the recommendation of the Speaker. The sole resemblance was in name. The Government of La Plata was a military despotism, like the Republic of France in the days of the Consulate, but destitute of its order, strength, and stability. If the resemblance was perfect, and the Government and people of La Plata worthy to be ranked by our side in the community of nations, still the inutility of such an acknowledgment is a satisfactory reason for refraining from it.

Mr. F. thought he might safely leave the question to the judgment of the committee, after showing that the most powerful recommendations of the amendment were, that it was unmeaning and harmless. But he considered it a duty to examine more at large the various inducements offered by the Speaker to insure its success. Mr. F. knew and felt the danger to which he exposed himself by this course—that he would be assailed as an enemy to liberty, &c. Exertions had been made to prepare the public mind for such impressions against all those who thought with him on this subject. Notice had been given from this city, and was now ringing through the Western country, that questions were to be brought into view, by whose decision the people would be able to discriminate between those who were just and unjust to the patriot cause—between the friends and the enemies of freedom. Such considerations had no influence upon his conduct. He who was deterred by anticipated censure, or threatened calumny, from the performance of any duty, was not worthy to represent a free people—to preside even in the most subordinate sphere over the movements of a mighty empire. Careless of the motives which might be imputed to him, he should proceed to show that the Speaker had offered no sufficient inducement to justify his proposal in the origin, progress, or character, of the revolution in Spanish America; that it is not demanded by our commercial or political interest in the great struggle between Spain and her former dependencies; that while he admitted it was the right of the United States, it was not a duty to recognize the new Government; that it could not be done without the danger of war with Spain; and that it was not sufficiently demonstrated that Buenos Ayres had established, and would maintain, a free and independent Government. In tracing the origin of the revolution, the Speaker had carried us back to the first invasion of Mexico and Peru, to the days of Cortez and Pizarro, of Montezuma and Atahualpa. From that period he had given a faint outline of the cruel, selfish, monopolizing, and debasing policy of Spain to her American dependencies—foreign and inter-colonial intercourse forbidden to her subjects in those magnificent and fertile regions of the earth; the pursuits of agriculture directed by the narrow policy of an unjust Government; the soul itself debased to the purposes of oppression by municipal regulation. It was a gloomy picture of a sad reality; a faithful representation of nature, drawn by a master's hand. The policy was but too truly characterized, and its success was as complete as its character was atrocious. It had been pursued with undeviating steadiness, until the horrible contrast was exhibited of a people the most debased, in the midst of the fairest regions of the globe; man, the masterwork of creation, with intellect enervated by despotism, and soul withered by superstition, surrounded by the most sublime and stupendous monuments of inanimated nature. Was the origin of the revolution to be found in this systematic oppression? It would be looked for here in vain. To use the language of the Speaker, Spain would have succeeded in contin-

uing this system but for the transactions of Bayonne. The puerile ambition of Napoleon was the foundation of the South American struggle. The Old World was convulsed; eighteen millions of people were agitated in the new, by his childish desire to have a King of the new dynasty on the throne of Spain; by his silly anxiety to substitute the Bonapartes for the Bourbons, over all nations dependent upon his colossal power. Was this great event hailed with joy by the Spanish Americans? Was the glorious opportunity of breaking their chains seized with avidity? Far, very far, from it. They were stunned by this unexpected occurrence; stupefied by the dreadful alternative of self-government, or submission to French rule. Like the unhappy man long immured in the gloom of a prison, they had been so long deprived of his glorious light, that the beams of the blessed sun were hateful to their eyes. This fortunate event was considered a national calamity, to which there was no alleviation but the opportunity it afforded to discover their unshaken loyalty and blind devotion to the cause of their adored King. Their resources were devoted to his service. The sole difficulty was to find, during his imprisonment, a substitute for the royal authority. The laws, and customs, and frame of Government, in other respects, remained without change; the municipalities, haciendas, audiencias, &c., all the subordinate machinery, continued in its accustomed place, and performed its accustomed operations; and, although the necessity of additional exertion produced a greater vigor of character and boldness of thought in the heads of the Government, the great mass remained unaltered in habits, opinions, and desires. England, covering the peninsula of Spain and Portugal with her armies, and, the enemy of France, procuring, without difficulty, the great object of her long-continued solicitude—a free commerce with Spanish America. Juntas were established upon the same principles as the Juntas of Spain, and war with the Junta of Spain was occasioned by the refusal of Spanish America to acknowledge that they were the legitimate repository of the royal power in both hemispheres. The unhappy land was rent by internal factions, in which the people were the instruments of designing ambition. The leading men disputed for the honor of being the royal substitute, none for the glory of establishing a free Government, founded upon the principles of justice and equality, whose basis was the power, whose object was the happiness of the people. The most bold, and successful, and honorable exertion, for the formation of a liberal Government, was made in Venezuela. But this new Government was overturned by an earthquake in 1812. The misguided people were induced to believe that this awful visitation was the immediate consequence of their conduct, the just judgment of an angry God upon the revolution, and those who promoted or favored its success.

It might be imagined that the principles of political, civil, and religious freedom had been developed in the progress of the revolution; the present state of it would discover how far the people of Spanish America had improved in the knowledge of their personal rights, and their determination to maintain them. In Mexico the contest was at an end; at all times of a doubtful issue, the last ray of hope was extinguished by the death of the gallant and unfortunate Mina. This disastrous termination of the struggle was not produced by the successful exertion of Old Spain; it was effected by the efforts of a people who formed a large portion of the eighteen millions of men who were represented as contending in the glorious cause of freedom. In Caraccas, a sanguinary, and dreadful, and, at least, a doubtful contest was maintained with the modern Alva, by the imitator of his cruelty, Bolivar. La Plata and Chili had better prospects of success; and all our sanguine hopes are fixed upon them. Thus, of the eighteen millions of people, for whom our sympathy is demanded, more than thirteen millions are the contented slaves of the Spanish authority; and it was the madness or stupidity of Ferdinand, that prevented the voluntary return of all to their ancient thraldom. A decree of oblivion for the past would have reinstated the Spanish power, if it had been promulgated by Ferdinand on his restoration to the throne. Mr. F. rested this opinion upon the authority of a work to which he had before referred, the Outline of the Revolution in South America. In the conclusion of that work it is said, "the return of Ferdinand might have brought with it the return of peace. The people were tired of war; the leaders of the revolution disappointed in their views; a large body of the people in a state of apathy or indifference; and what was still more important, the veneration attached to the name of Ferdinand still existed, though, in some degree, diminished." This veneration was converted into a dread of his resentment, by the mission of Morillo and his sanguinary suite. Mr. F. trusted in Heaven that this act of royal madness would meet with its appropriate punishment, in the total subversion of his western empire; that thus compelled to continue a resistance to the Spanish yoke, that the people would acquire what experience and suffering had not yet taught them, the knowledge of their strength, and the means of using it to the establishment of a Government similar to ours. Such were his ardent wishes, not his confident expectations. That the independence of all, or portions of the southern continent would, at no distant day, be achieved, could not be doubted; to what extent civil liberty would be established, was matter of speculation. Opinions, more or less favorable, would be formed, according to the sanguine or cautious temper of the judge. In the origin and progress of the revolution, there was no inducement to an act of doubtful policy. But our sympathy was demanded for

this great cause, in character so like that of our Revolution. Sympathy for the people of the South was universally felt, and might be indulged, without scruple, in wishes and in hopes; but, when it was made the foundation of an attempt to precipitate the adoption of a favorite measure, it was necessary to examine how far it was justly inspired. That the cause of the colonies was just, and that they were entitled to the good wishes of all mankind in their contest with Spain, was unquestionable; but we are expected to feel and indulge a deeper sympathy, arising from the alleged similarity of their situation and that of the United States in 1776, from a congeniality of feeling, opinions, and pursuits, between the Spanish Americans and our predecessors. The honorable member from Kentucky had solemnly invoked the departed spirits of our ancestors to give him strength and ability to vindicate a people contending in a cause as glorious as that in which they had been engaged. An invocation to those illustrious shades to pardon a profanation of their ashes, by this odious comparison, would have better become him; and if the inhabitants of the other world are permitted to interest themselves in the transactions of this life, they would, no doubt, find, in the purity of his intentions, the motive for this forgiveness. Was not the comparison odious? In what consisted this boasted resemblance? They are colonies, contending to be independent of the parent country—so were we; here the resemblance ceases. In the motives of the contests, in the causes which produced them, in their means, and in their ends, there is contrast, not resemblance. We asserted, vindicated, maintained, and improved our rights, political, civil, and religious. We saw oppression as it approached us; remonstrated with firmness against injustice; discussed with calmness the extent of our obligations and the nature of our rights. With a perfect knowledge of the doubtful issue of a contest with our powerful, proud, and ambitious stepmother, we encountered its perils and pursued it with virtuous steadiness, until our triumph was as signal as our moderation had been conspicuous. They were oppressed and contented, manacled and reconciled to their chains, until accident compelled them to involuntary exertions. Political independence was cast upon them, and is now the sole object of continued resistance. If human rights are secured by success, it is an unlooked for, unexpected consequence; an unknown good, a result not desired by those who were to derive its benefits. Political independence was, with us, the means for the accomplishment of our objects. With us it was emphatically a war of the people. The Government organized to conduct it was established by them. In the numerous changes of the persons in power, it was the immediate and regular expression of their will, that elevated or depressed the candidates for their confidence. The Confederation, a rope of sand, had tenacity and strength enough to bind them together, while union was necessary to success. During the contest, the military was completely subordinate to the civil power. With them, the first and the last movements in the contest were made without consulting the will of the people, and no means have yet been afforded by which it can be effectually expressed. They have neither agency in the management of, nor control over, the acts of the Government, created for them. Revolution has succeeded revolution. Every change of rulers has been produced by a change in the form of substitution for the royal authority. The civil has been at all times subordinate to the military power. There was an equally striking dissimilarity in the manner in which the wars were conducted. With us, with the exception of some personal, intestine, and bloody feuds between Whig and Tory, it was carried on with the strictest regard to the laws of honorable and civilized warfare; no instance occurred of the death of the unresisting by the command of any officer in the public service. It must not be forgotten that ample justification was given by the British armies for a contrary system. The massacre of Paoli and the murder of Hayne were still fresh in the recollection of all. But, while burning with resentment for these atrocious deeds, we did not forget what was due to our character, and dishonor our reputation by following a horrible example. The cold-blooded massacre nerved the arms and steeled the hearts of our soldiers in the hour of conflict, but the cry of mercy never was raised in vain by a vanquished foe. When the gallant Hayne was barbarously executed by a British officer, whose present rank and subsequent achievements could not remove the stain of this sanguinary act from his character, the deep indignation of the nation was excited. A gallant officer was selected to pay with his life for the cruelty of his country. But the sacrifice was never made, and the gallant and generous officer was reserved to perish in defending the reputation of that people, by whose forbearance his life, forfeited by the injustice of his country, was spared. Mr. F. would not be understood to call in question the justice of the retaliatory system of extermination adopted by the Spanish Americans. He believed that the dreadful example was set by the Royalists, and the resort to it was justifiable, and perhaps essential to security and success. All he proposed by this examination was to show, what was highly honorable to his own countrymen, that a resort to such a system was not made by them under the strongest temptations, and under circumstances which would have fully justified it. The comparison was made to show the exalted character of our own contest, not excite prejudice against that of neighboring nations.

Splendid political consequences were anticipated from the expected change. The freedom of the commerce of the Mississippi—the safe navigation of the Gulf of Mexico—the power and effect we should derive, from being the

head of a confederation of republics. In case of necessity, the new world of republics was to be arrayed against the old world of despotisms. In the event of European wars, we shall have powerful auxiliaries in the assertion of neutral rights. And was it really apprehended we should ever want aid to maintain the free commerce of the Mississippi or the Gulf of Mexico? these might be safely trusted to our gallant tars and the people of the West. Suppose this great change to have taken place. Overleap in imagination the progress of centuries, and see the United States connected with Republican Governments to the southern extremity of the New World; the first, if you please, in wealth and power; overcoming the disadvantages of situation and climate, by her superior skill and superior industry. What superior advantages will the people enjoy that are not possessed by ourselves? Will they be more free, more happy, more virtuous, and less exposed to the danger of internal commotion and external violence? The power of the Government to destroy other nations would be increased; the power of the Government to promote the welfare of the people, the object for which it exists, would remain the same. Connected with the people, active, intelligent, and jealous as ourselves, our rivals in commerce, in agriculture, in science, and in the freedom of their institutions; will these elements of strife be composed to harmony by the tender names of sister Republics? Men do not change their nature with their Governments! Brooding avarice, malignant revenge, daring ambition, will find their place under all forms of government, in all ages and in every clime. Mr. F. would not look further into the consequences which might be anticipated from the working of these passions among the affiliated nations. As in the days of ancient Greece the ground of quarrel would be, who should be the first; and some Eastern Satrap might again be found, to foment the quarrels and distract the councils of the Western World. There was one remedy for these dangers; instead of many, but two Republics should be created of the North and South Americas. Mr. F. was not yet prepared to risk the happiness and the security of the people of the United States, by such a sublime but hazardous extension of their political system. Nations, like individuals, were, under God, the fabricators of their own fortunes. Of this nation this was undeniably true. We want no power which we cannot acquire, since we desire none but for our own protection. We ask no aid, since we will not invade the rights of others; to defend ours, our own strength is amply sufficient. We are free, independent, and happy, so long as the people are true to themselves. United, combined Europe would be arrayed against them in vain. No man need look beyond our own borders for the means of securing and perpetuating all that is valuable in life and liberty. In the assertion of neutral rights it was but too fashionable to look beyond our own resources; the experience of the late war satisfactorily demonstrated that it was unnecessary. It discovered to us, that aid was not to be found where it was expected; it demonstrated that it was not required. He rejoiced that that contest was commenced and terminated without an ally, and he most heartily thanked the English Government for refusing the proffered mediation of the Emperor of all the Russias. The obligation of that offer would weigh upon his spirit, had not the load been removed by the nonchalance with which the refusal of the other power had been received, and the equivocal treatment experienced by our Ministers from the Court of St. Petersburg. We want no aid and no ally for asserting any of our rights. The experience of the late contest was not less useful to ourselves than to others; it taught them, too, the secret of our power;—trust to its effect; the impression was deep, and the remembrance will be lasting. Mr. F. would not press this inquiry, lest he should be suspected of desiring to produce a wish that Spanish America should remain dependent. All he desired was, by bringing other objects into view, to save the committee from the seducing enthusiasm of the Speaker. If the question of Spanish American independence depended upon our selfish considerations of interest, it never would be achieved. If we were governed by the ordinary policy of nations, we should desire the re-establishment of the Spanish power, since it impeded the progress of our neighbors, and left us undisputed masters of the world of western enterprise. But our policy was as liberal as our institutions. We looked anxiously for the emancipation and improvement of the Spanish Americans, however formidable their competition and dangerous their rivalship. We desired it for their good, and not for our advantage. That the United States had a right to acknowledge any Government, was a political axiom. That it was our duty to recognize the Government of La Plata, remains to be proved. If our interest and our honor require it; if it is demanded by our obligations to that Government, it was a duty. What interest have we in this independence, which should induce us, first among the nations of the earth, to welcome this stranger? Was it commercial? The fact that we had not more than twenty vessels in the commerce of La Plata, and that number diminishing, while the English had more than two hundred, was a proof of the extent of our commercial interest in this region of the world. Separated at a distance so remote, where was the political consideration to demand it from us? There was none. We are asked to do what France did for us. Mr. F. said, the United States had already done more, openly, for La Plata, than France ever did for the United States, prior to her determination to go to war with England. The United States were now in advance of all the nations of the earth, except the Government of Brazil, in kindness to Buenos Ayres. France, prior to the capture of Burgoyne, forbade her subjects to supply us with

arms and munitions of war; would not suffer our vessels of war to enter her ports, but, according to the provisions of the Treaty of Utrecht, when driven in by stress of weather, and their stay was limited to the duration of the danger. We openly permit the exportation of every necessary for the use of the people of La Plata. Their vessels enjoy every privilege enjoyed by Spanish vessels, or the armed vessels of any other nation, in our harbors. We wish them success: they know it well; we do not conceal, or affect to conceal, it from Spain. These privileges are denied them by all the powers of Europe, or if granted, are yielded to them in secret by England.

We have proclaimed a strict neutrality; regulated our conduct by the rule of the national law. "In civil wars foreigners are not to interfere in the internal government of an independent State. It belongs not to them to judge between the citizens whom discord has roused to arms, nor between a Prince and his subjects. Both parties are equally foreigners to them, and equally independent of their authority." The circumstance to which the Speaker referred, if correctly stated, is the most certain evidence that our conduct has been consistent with our professions. We have pleased neither party, while more fortunate England has succeeded in pleasing both parties. Honorable neutrality is never grateful or pleasing to either of the belligerents; pretended neutrality and secret assistance is grateful to that power to whom aid is given. England may have been artful enough to persuade Spain that her four hundred thousand pounds was intended for this purpose, while her secret supplies of arms have satisfied the United Provinces that England desired only to promote their success. Our duty cannot require us to do what is useless—what is calculated to confirm a charge made against us, of fomenting the disturbances in Spanish America; a charge to which probable evidence is already afforded by the expeditions of Miranda, of Carrera, of Mina; all of whom sailed from these States to their places of respective destination. It is the duty and the interest of England to stand forth as the protector or first friend of the new Government. She enjoys the fruits of their separation from the parent country; she fomented the quarrel. Then let her take the risk, as she will take the honor and the profits of the recognition of the new power. Mr. F. was at a loss to conjecture why it had not already been done by England, unless she feared the undefined and undefinable obligations of the Holy League, or was content to reap the *present* profits, reserving to herself the power to secure the *future*, either by recognizing the new people on favorable conditions, or by restoring them by her mediation to their former master, on conditions equally favorable to her commercial interest.

At what risk, it may be asked, will this recognition be made? At the hazard of a war with Spain. The gentleman from Kentucky says it is not justifiable cause of war. Does he mean in the eye of reason, or in the opinion of nations? In the opinion of nations it certainly is justifiable cause of war; and it is not to be doubted that, were situations reversed, such a recognition of the independence of one of these States of the Union—Louisiana, for example—by Spain, would be instantly followed by war. The Speaker seemed, indeed, to doubt the soundness of this position, as he pressed principally the want of ability in Spain to make war, not the deficiency of just motive for declaring it. That war would follow with England, should Spain venture upon a contest with us, Mr. F. did not believe. She would have the most powerful motives for neutrality. The glorious opportunity of ruining our commerce would be afforded, and would be seized with avidity. The increased expense of shipments in American vessels would throw the whole of our trade into British bottoms, and our flag would be driven from the ocean, except where it floated over our public or private armed ships. Mr. F. would encounter this danger of a war with Spain, with all its consequences, for an adequate motive; but he would not, by hurrying to do an act useless at best, and which might hereafter be performed without hazarding any thing. At all events, he was unwilling to encounter it until La Plata had shown, by indisputable testimony, that she was independent, and had the power and the will to maintain it.

Was there a free Government in La Plata, for whose existence we ought to encounter any hazard? Was there a Government independent of Spain, and which could not be compelled by the power or seduced by the cajolements of Spain to its former vassalage? The character of the Government might be read in the history of its formation, in the changes which preceded it, and in acts since it was established. The disturbances in the Peninsula induced the Viceroy of Buenos Ayres (Cissneros) to call a Junta in May, 1810, composed of the officers of the Royal Government. In April, 1811, a new Government was formed by the inhabitants of the city of Buenos Ayres, having been called together for that purpose by the municipality of the city. This Government—which, like the other, was but a name for a new organization of the regal power—was composed of three members and two secretaries. According to the El Estatuto, one member, exercising the Executive power, was to vacate his seat at the expiration of six months, and his place was to be supplied by election. The deputies of the municipalities of the provinces were to form the electoral college. The first assembly for the election of one of the members of the Executive authority met on the 5th day of April, 1812, and nominated Puerrydon for one member of the Government. They proposed to form a constitution, but were dissolved by the existing authority—Puerrydon deriving no power from this nomination. The second assembly met on

the 6th of October, 1813, and elected Medrano; but, pursuing the track of their predecessors, they met a similar fate. The municipality, people of the city, and troops, opposed their measures, and the assembly was dissolved by military force.

A meeting of the inhabitants of Buenos Ayres, Cabildo Abierto, was convened on the 8th day of October, 1812, and the administration was vested in Pena, Passo, and Johnte. Thus perished the first constitution, after existing twelve months, and being violated in all its provisions. In January, 1813, a new assembly met; the Constituyente, composed of deputies, nominated by the electoral colleges of the towns and cities of Rio de La Plata. The chief acts of the new assembly was the change of the title of the Government from Gobierno Superior to Supremo Poder Executivo, and the decree of freedom to the children of slaves. The same decree compelled a sale of every third male slave to be enrolled in the army, the price being a debt due to the owners by the State. In December, 1813, the government of those persons was annulled by the assembly, and Pozados was chosen Supreme Director, to give strength by concentrating the Executive powers. In January, 1815, Pozados having resigned, Alviar was appointed Supreme Director. In April, 1815, there was a new revolution. A meeting of the inhabitants of Buenos Ayres was convened, and the authority of Alviar and the Assembly disowned. The municipality was vested with the supreme command. The municipality formed a junto called De Observacion, by whom a new constitution was published. Rondeau was named Director, but being in military command with the army, Colonel Alvarez, a ringleader in the revolt, was made his substitute. Alvarez convoked a Congress, but before it assembled he was dispossessed by another commotion of the power he held in the absence of Rondeau. Belcora was then appointed Supreme Director, but was soon after removed, and the administration placed in the hands of a committee. The Congress of Tucuman met in 1816, chose Puerrydon Supreme Director, and declared the independence of the Provinces of La Plata on the 3d of July; proposed to publish a manifesto, which was published in 1817, and to form a constitution that has not yet been matured. In this hasty sketch of the events which led to the establishment of the Government as it now existed, it must have occurred to the members of the committee that there was no agency of the people in its organization, except the commotions in the city of Buenos Ayres; they seem to have been the idle spectators of the movements of the constituted authorities and the military. For aught that appeared, the ancient institutions below the head of the Government remained as formerly. Mr. F. would not detail the accusations, trials, executions, and banishments which were the consequences of these changes. That the people were not deeply interested in the successive changes, and did not appear to have derived essential benefits from them, was sufficiently obvious, and all he desired to establish. The conduct of Puerrydon to Carrera, since this declaration of independence, may serve further to illustrate the character of this new power. Carrera was a Chilian, the author of the revolution there; in the decline of his fortune he came to the United States, and after procuring resources for renewed efforts, returned to La Plata to execute his designs; he carried with him the hopes and good wishes of all the friends of freedom in the United States. Unfortunately, he expected assistance from La Plata, and sailed with confidence into her ports. An expedition having been prepared in La Plata against Chili, instead of receiving aid from Carrera, in the deliverance of his country from slavery and oppression, the ostensible motive for this expedition, he was seized, imprisoned, and finally banished; the only satisfaction he received is to be found in that part of Puerrydon's exposé that has been read by the Speaker, in which he deplores the rudeness which he has been compelled to show, so contrary to the politeness and urbanity of his own nature and that of his Government. The motives for this course may be collected from the recent accounts from Chili. A letter of the 7th of October says, "More than eighty persons of the first distinction have been seized and thrown into dungeons by the military, on the ground of attachment to General Carrera, and the treasures of Chili were exhausted by contributions to Buenos Ayres, and the people of Chili are experiencing the benefits of that kind of deliverance from the Royal Spaniards, by O'Higgins and the army of Buenos Ayres, that France has experienced under the Bourbons, supported "by the armies of Wellington and Alexander." The power of Spain had not been exerted against this new Government—not a Spanish soldier or bayonet had been sent from Old Spain since the restoration of Ferdinand. Was the new Government possessed of the physical and moral strength to resist her efforts when they should be made? Gentlemen should not deceive themselves. Spain, inert and powerless as she was, was a formidable power to Spanish America, by the nature of the Government and the superstition of its inhabitants. She had ample resources for the purchase of assistance, should she be driven to this resort. The time had not arrived when the Spanish Monarch asked himself the important question—What part of my dominions will I surrender for the preservation of the rest? When he is willing to make great sacrifices he can procure ample assistance. Those who sold him ships for money will sell him men for territory. His European territories may tempt Russia—his possessions in the West Indies, England—to assist him in the subjugation of his rebellious subjects. He may sell La Plata for Portugal, and the parties to the holy league may guarantee their respective cessions to each other. Shall we find in La Plata the unanimity, energy, and virtue to re-

sist such arrangements, where Province is arrayed against Province, under Puerrydon and Artegas, viewing each other with a hostility more deadly than the proverbially mutual hatred of Spaniard and Portuguese? A still more fatal course may be pursued. The King of Spain may choose to try persuasion, giving to England the promise of free commerce with the Spanish Main; may he not easily procure another mediation, the condition of which shall be the conditional return of La Plata to her dependent state? England knew well how to make such a mediation effectual. Let it not be said her honor forbids it, or her interest. Her interest is promoted by the commercial monopoly such an arrangement will give. Her honor always bows obedient to the dictates of her commercial interest; if she should feel some qualms of conscience, the island of Cuba will calm her scruples. But has she ever promised more than to secure the commercial independence of Spanish America? What a contemptible figure should we make in the eyes of all mankind—how degraded in our opinions—if we should recognize La Plata, and the Government should shortly after voluntarily return to the Spanish yoke! That the committee might not be deceived by the supposed attachment felt by the new Government for the United States—by the profession of an anxious desire to follow our example and imitate our virtue, Mr. F. would mention a few facts, at once illustrating the ardor of their attachment to the United States, and the justice and honor of the Government in its dealings with individuals. The American brig Savage, of Baltimore, sailed to Buenos Ayres with a cargo of military stores; they there sold them to Government, to be delivered in Chili. The voyage was performed; four months elapsed, under various pretences, before the cargo was received, and after this delay the payment was made, not according to contract, but at the discretion of the Government. The owner was thus plundered of his property, and injured by this delay of his plunderers. The ship Enterprise, of Philadelphia, Captain Coffin, was employed, by contract, to carry three hundred exiles from Juan Fernandez to Valparaiso, from whence they had been formerly banished by the royal party. He was to have received $7,200. He performed his contract—restored the exiles to their country and their homes. After a detention of two months, he was paid $2,500—St. Martin, the Washington of America, as he is called, alleging that this was enough.

In the armies of La Plata, English and French officers are employed without scruple; Americans seldom, if ever. Our countrymen do not suit their manners, opinions, or Government. Juett, formerly of the army of the United States, and Kennedy, formerly of the marine corps, sought in Valparaiso, in 1817, commissions in the army of St. Martin. He suspected them of attachment to the Carreras, and threw them into a dungeon, and whence they were not released until the captain of a vessel, who procured their liberation, entered into an engagement to take them immediately from a soil they were deemed unworthy to tread. To judge of the character of the nation from the cruelty and harshness or injustice of an individual, was not reasonable; but when that individual was the theme of universal admiration in his own country, it could not be considered as improper to make him the standard by which to estimate the opinions and character of his countrymen.

Every arrival from this land of promise brings us the history of the oppressions of the existing Government, and the fearful forebodings of our countrymen, that the people for whom our anxious wishes are hourly expressed will derive no benefits from the change of their governors; that the Spanish power will be restored in all its rigor; or that the new authorities will ever be exercised with the same contempt of the principles of justice and of freedom, that distinguished the ancient tyranny. It might be urged that this was newspaper information, derived from persons of doubtful authority. This objection was of the same force, in its application, to all the information possessed of that country. It was of such materials its history was composed. A powerful, an irresistible argument, to induce the committee to refrain from the commission of an act of doubtful propriety, might be drawn from this source; but Mr. F. would not trespass longer upon their patience, exhausted as it must be by attending to the long and animated address of the Speaker, and his own desultory reply.

And the House adjourned.

THURSDAY, March 26.

Spanish American Provinces.

Mr. ROBERTSON, of Louisiana.—I should not have risen to express my opinion on the present occasion, if I had not, at an early period of the session, indicated my intention to do so, whenever a proper opportunity should occur; but for this circumstance, I should have been contented to give a silent vote, for I am well aware, from my more than usual ill health, that there will be nothing in either the manner or the matter of my address to compensate the committee for that attention which their indulgence may induce them to bestow.

I unite with the gentleman from South Carolina in considering the proposition of the Speaker as involving in its decision the views of this House, in respect to the independence of the Government of Rio de la Plata, and as to the expediency of acknowledging it. On both these points my opinions are formed, and I shall give them utterance, without equivocation or hesitation, notwithstanding certain cabalistic words, of great efficacy with old women and men of weak minds, of the use of which the gentleman from South Carolina (Mr. LOWNDES) has availed himself. I allude, sir, to his remarks on the

danger of war, and the impropriety of casting censure on the conduct of the Executive.

I beg leave to assure the committee that I have no wish to involve the country in war; that I agree in every thing my friend from South Carolina has said as to the inappreciable advantages of peace. I would even go further; I almost think that peace is necessary to the existence of liberty. Rarely indeed does the freedom of nations survive the expensive and bloody contests in which they are too prone to indulge; liberty, morals, prosperity, all depend upon peace; they are too precious to be wantonly hazarded; I would sanction no measure that would endanger them but under the most imperious circumstances. Nothing, too, is further from my intention than to censure the conduct of the Executive; so far from it, I wish to give to the President the strongest proof of my agreeing with him in opinion, by furnishing him with the means of executing his wishes in regard to the people of South America. Has he not told us, sir, that he feels the sincerest sympathy in their behalf, and has he not told us further that they were a people engaged in civil war, and entitled to equal rights with their enemies; and can it be otherwise than gratifying to him, that this House should concur in his views, and enable, nay more, encourage him with the cheering influence of its approbation, to give effect to his benevolent and kind feelings, and to do justice to the revolutionists, by acknowledging their independence, sending them an ambassador, and placing them in that situation of equality which, he says, they are entitled to enjoy? Sir, it cannot be otherwise than agreeable to the President to know the opinion of Congress on so momentous a subject; if that opinion, independently expressed, shall concur with his own, he will act conformably to it; on the other hand, if, from the position he occupies in the Government, from his better information, or from any other circumstances, unknown to the public, he shall think it best to continue, unchanged, the state of our relations with South America, he will do so. For one I shall not object, if he does but exercise his right to judge and decide for himself; and I am too much in the habit of pursuing my own opinion to blame others, whether in public or private stations, for exhibiting a like independence.

But the gentleman from South Carolina seems to contend that it is the exclusive right of the Executive to manage our foreign relations; that he is better informed on these subjects, and that this House ought not to interfere so far as to suggest an opinion or a wish, unless it is meant to be understood that strong disapprobation is felt towards the course which has been pursued. I think, too, it may be inferred from the remarks of the gentleman, that the President is not only better informed on all questions of this kind than Congress or the nation, but that it is right and proper that he should keep his information to himself, and not part with it too freely or too frequently. Now, I dissent from all such doctrine; I look upon it to be the duty of Congress to express its opinion freely upon all questions which concern our domestic or foreign affairs, and I consider it as the solemn duty of the Chief Magistrate of a popular Government to disseminate among the people all information that can instruct them on points so important as their situation in regard to other Governments.

I would ask, sir, how else can the wise measures of a virtuous administration receive rational approbation, or how a vicious Government be arrested in its mad career? Shall it be justified in managing in secret the whole interests of the public, in plunging into war after a long concatenation of events, which, if known, might have been prevented, or in allowing the nation to repose in security, when, from its own acts, or those of other Governments, it stands on the brink of a precipice? Ought there not rather, in such a Government as ours, to be the most unreserved and frank communication of facts, of whatever kind they may be? Ought there not to be felt and evidenced, towards the people, the most entire and unaffected confidence? Will the people long continue to confide in those who manifest distrust, by covering their proceedings, whether of an external or internal nature, with a veil of mystery and secrecy?

I cannot approve of the observations of the gentleman from South Carolina, and I do hope that the present Administration will act on no such principles. In the examination of the present subject, I shall not indulge myself in so wide a range as some of the gentlemen who have preceded me. I will endeavor to show that the Government of Rio de la Plata is independent, and that it is expedient to acknowledge that independence. To establish the fact of its independence, let us inquire whether it has declared itself independent? Of this there is no doubt; this fact is not disputed by any one. I state it thus specifically, because it is far from being itself an unimportant circumstance. In our own case it was not so considered. In the language of one historian, Ramsey, after that event "we no longer appeared in the character of subjects in arms against their sovereign, but as an independent people, repelling the attacks of an invading foe." And Marshall says, "we changed our situation by the Declaration of Independence, and were no longer considered as subjects in rebellion." From that time, too, we date our actual independence. It has not been permitted to be deferred till its acknowledgment by other nations, nor until the peace; and so has the fact been established, as well by political as judicial decisions, both in England and in the United States. Buenos Ayres remained faithful to Spain under circumstances extremely favorable to her throwing off the yoke. When the Peninsula was overrun by a foreign army and torn by domestic faction, the people of Buenos Ayres submitted to be gov-

erned as a colony; they were willing to continue their former connection, while the Government was in the hands of Charles, or Ferdinand, or Juntas, having the semblance of power; but, when the whole of the Peninsula, except Cadiz, fell into the possession of France, they declared themselves independent; this was done by the Viceroy Cissneros. But the final and great act of 1816 flowed from the people; they then declared themselves independent of Spain and the Bourbons; established a Government for themselves, and have ever since enjoyed the most perfect exemption from every thing like foreign control. They now appoint their own Executive Magistrate, their legislators, their judges, lay taxes, raise armies, and build navies, with which they not only secure their own independence, but diffuse that blessing over the neighboring Governments of Chili and Peru. They are more independent than we were at any one moment previously to the peace of 1783. Their soil is free from the pollution of a foreign hostile foot; and, if it be said that they have their factions, so had we ours. We had, in addition to our foreign foes, our tories and domestic traitors. But it is objected that the provinces are not all united under one Government, and that Artigas is in possession of the province of Montevideo. But the possession of Artigas is not the possession of Ferdinand; the whole of the Banda Oriental is as free from his authority as Buenos Ayres itself; and the sole question at present is as to the independence of Rio de la Plata of its former European master. The freedom of Venezuela, New Grenada, and Mexico, is, unhappily, less assured; but they, too, have declared themselves absolved from the tyrant's yoke. Many years ago the Executive of the United States laid before this House the constitution of Venezuela, and a resolution was adopted by the committee to whom it was referred, declaratory of the interest this House felt in their success, and promising to recognize them as independent when they should take a stand among the nations of the world. In regard to Buenos Ayres, that happy period has arrived; and it becomes us to realize the hopes to which our promises have given rise. The fate of New Grenada has been various; it has sometimes enjoyed self-government, and has been again subject to the temporary control of the usurpers of its rights. The gentleman from Georgia tells us that Mexico has been preserved to the royal cause by its own native population; that it has not been found necessary to send over foreign troops to secure its allegiance to its sovereign. But the gentleman forgot to inform us that Mexico has been always filled with European troops, and that the number already there rendered any augmentation unnecessary. But for the Europeans in Mexico, a dissolution of its connection with Spain would long ago have taken place.

But, sir, for what purpose has the gentleman from Georgia dwelt so long and so earnestly on the motives of the people of South America for declaring themselves independent, and on the manner in which the struggle has been conducted? The only question is, whether they are or are not independent. But the gentleman is as mistaken in his views on these subjects, as it is unkind in him, professing, as he does, to wish success to their cause, to pass their conduct, distorted as it is, in review before us, when nothing renders such investigation necessary. The gentleman says that their revolution did not begin on principles favorable to individual liberty; but I would ask, sir, what revolution ever did? What revolution ever stopped at the point to reach which it commenced? What revolution, at its origin, ever advanced the principles on which, in its progress, it was conducted? What revolution ever terminated where the particular grievances were removed which gave it birth? A candid examination of our own history will sufficiently elucidate these views. We did not commence our contest with the mother country with any avowal, whatever might have been the intention of the intelligent and virtuous, of a wish to throw off colonial subjection; far from it; our professions of attachment and fidelity to the monarch were never before so frequent nor so strong. We complained of trifling grievances: proceeded cautiously to remonstrances, then to resistance; declared ourselves, after a lapse of some years, independent, and ultimately overturned the entire fabric of that Government, which, in the beginning, we so often praised, and merely affected to disapprove in some comparatively immaterial points. So the South American patriots act cautiously in regard to their former masters; profess, for a convenient time, entire devotion to their will, and take advantage of circumstances to effect the liberation of their country. But I acknowledge that individual freedom does not seem to be with their leaders a subject of sufficient concern, and perhaps on this point it is no more difficult to excuse them than on that connected with their national independence. Let it be kept in view that they have two great objects to attain—the one, obnoxious to Spain, their national independence—the other, hateful to all Governments except our own, individual liberty. As they, in common with all revolutionists, have found it necessary to mask their designs on the first point, so may it be politic in them to be as silent as possible in regard to the other. Where, throughout this enslaved world, are they to look for countenance or support, if they should dare to announce too openly their attachment to democratic forms of government? Will the combined despots of Europe smile upon their efforts? Can they look across the Atlantic for the cheering influence of approbation, when even here, in this Republic, they meet with cold indifference? Do they not perceive that the nations of Europe, although friendly to their independence, are hostile to their freedom? And may not this account, if it be true indeed, for the carelessness exhibited by them, accord-

ing to the gentleman from Georgia, on the subject of individual rights?

Mr. Chairman, the combined despots of Europe cannot, as formerly, indulge themselves in the royal sport of arms; they cannot wage wars of amusement or ambition; they are sufficiently employed in keeping their own subjects in subordination. Admirable as their Governments may be, something like coercion seems necessary to impress that opinion on the minds of their people. The armies of Europe are not now intended to guard against, or to make foreign conquests; they are to keep their inhabitants in slavery, and the kings on their thrones; three millions of soldiers in arms are all necessary for that purpose; they have no occasion to look abroad for employment; they need not come across the Atlantic. Sir, the impulse given to the human character by the American and French Revolutions still survives; the principles of despotism and superstition are dead—they do not suit the age; they may be sustained a little longer by the force of bayonets, but the love of liberty lives in the heart, will again before long have utterance, and ultimately succeed and triumph. Blind, indeed, must that man be, who does not see in the large standing armies of the Governments of Europe, the fear—the just fear—in which they stand of those whom they rule and oppress. Sir, we may manage our own affairs in our own way, without the fear of kings before our eyes. They have enough to do to keep things in order at home; their vigilance is more and more necessary every day; if they relax, they are hurled from their usurped dominion. I rejoice in this state of terror and alarm, and I most seriously wish that many years may not pass away before sufficient proof may be given that their fears are not unfounded and visionary.

But, sir, admitting, as is, on the main, generally admitted, that war would not be the consequence of sending a Minister to Buenos Ayres, yet it is contended that we have no interest, commercial or political, in their independence —indeed, it is pretended that it would be better for us, that they should continue in a state of colonial subjection. Sir, I feel an aversion seriously to combat so vile a proposition. I cannot believe that the happiness of others is incompatible with our own—such a principle does not enter into the great scheme of nature —it is the pitiful emanation of counting-house calculation, and is as untrue, as it is unworthy of any thing but contempt. Sir, the independence of South America is the common cause of all commercial powers—for the question is, whether its trade, by the subversion of its independence, will be again monopolized by Spain; or, by the establishment of it, laid open on equal terms to all the world; whether it is our interest to participate in the commerce of the colonial possessions of Spain, amounting in exports and imports to two hundred millions of dollars, or to be excluded from it entirely. This is the view of the subject; for it must not be forgotten that a return of these countries to the state of colonies, brings along with it the concomitant effects of the monopoly enjoyed by the Metropolitan Government. The commerce which we now enjoy would be lost to us; and when we take into consideration the number of our vessels already engaged in trade with the Atlantic ports, as well as those with, and without licenses, interchanging their cargoes with those on the Pacific, we cannot even now doubt of its importance. Our navigation would be benefited by carrying for them a portion of their valuable productions to Europe, and returning to them the manufactures of that quarter of the world in exchange. In carrying our productions too, wherever we might obtain the means of purchasing commodities suited to their markets, our manufactures, too, if we become a manufacturing people, will then find additional demand; and I believe it may be also established, that our agriculture would receive essential benefit. It may be fairly assumed, that the price of the raw material will be enhanced in the proportion of the demand for the manufactured article; and the demand for the manufactured article depends upon the number, the wants, and the wealth of the consumers. Who can, then, deny that these facts depend materially upon the independence of South America? Independence will bestow upon the people every blessing—it will add to their numbers, to their industry, to their wealth, to their disposition and their ability to consume commodities, many of which will be manufactured from our raw materials—thus giving encouragement to agriculture; and, being conveyed to them by our vessels, adding to the prospects of commerce, and the prosperity of navigation. An estimate of the value of a free commerce ought not to be made from the present situation of this interesting and unfortunate people, depressed and poor, from the combined effects of superstition and despotism, habituated to privations, and ignorant of the importance of the world to them, or of themselves to the world. Their present value in the scale of nations is comparatively inconsiderable, yet their imports and exports exceed our own, and, when we reflect, under the colonial system, on the necessarily enormous price of imports purchased exclusively from Spain; or, if obtained in any other country, burdened and clogged with heavy duties, payable into the King's treasury, we may arrive at something like just conclusions. When looking into futurity, we find millions of slaves converted into freemen—their industry, their wealth, and their wants increased, the products of their labor augmenting in value, and the articles of their consumption diminishing in price. But I do not consider the direct pecuniary advantages to our country, however great and certain they may be, as of so much importance as the political and moral effects growing out of a liberal and manly policy towards that people. It will have a tendency to give us confidence in the firmness and

virtue of Government—it will prove that it is not forgetful of the high character which belongs to us as a powerful and free people—that the reputation we have acquired, at the expense of so much blood and treasure, is not to be sacrificed by timidity, or an undue spirit of accommodation towards the monarchs of Europe—that we will do what our principles require, in spite of imaginary terrors, artfully excited by the enemies of freedom—in fine, that, cautious of giving just cause of offence, we will pursue the path of fidelity and honor, in defiance of the views and wishes of those whose political institutions make them necessarily hostile to human happiness and human rights—that we dare at least do, what we are sustained in by right and truth, in favor of the liberties of mankind, without being deterred by those who promote, with unhallowed violence, at the expense of every sacred obligation, the dogmas of priestcraft, and the doctrines of despotism. And if we are asked by the officious and intermeddling representatives of kings, why it is that we not only feel, but manifest sympathy for a people struggling to be free, let us refer them to their own unholy combinations, in support of the execrable principles of their Government—let us tell them of their wars for thirty years past against liberty—that if the safety of monarchies in Europe depends on the annihilation of republics, the security of a republic in America will not be injured by other republics growing up by its side; and that, if they have presumptuously broken down, by force, whatever stood in the way of the establishment of tyranny, we may at least hope to be forgiven for going so far as to assert an abstract proposition in favor of freedom; for, sending or receiving a Minister from La Plata, is no more.

Mr. FLOYD, of Virginia, rose, for the purpose of offering his view of this interesting subject, to the consideration of the committee, in support of the amendment proposed by the honorable Speaker; and said, as he knew the House must be weary at this late hour of the day, the only apology he could make was, that he would not detain them long. I am, said he, strongly impressed with a belief that an appropriation of this kind would well comport with the disinterested views of this Government, and would enable the President at any time to do justice to this Republic, which has achieved an object so glorious to itself, and of such signal benefit to mankind. The present is a favorable moment, when our affairs are prosperous and quiet—the world calm, and no political ebullitions to distract us. This would be the safe course—the dignified course—dictated by the true policy of the United States, and one calculated to free them from the odious doubts and suspicions of partiality which have been cast upon them, and would place their conduct in a high point of view, both for magnanimity and justice.

The spectacle presented to our view is sublime and wonderful; a brave people, disdaining the shackles of a foreign despot, wading through rivers of blood to erect their constitution upon a firm basis, which will secure to them the enjoyment of personal liberty, and give them a stand among the nations of the earth, as free and independent. Through the storms of revolution, their institutions have been purified. Warring now to maintain their freedom, they appealed to this nation for justice, and ought to have demanded our attention. This nation, free as air, cannot envy the enjoyment of the world besides, will bestow a part of its deliberations upon that appeal; nor now refuse to listen to the dictates of justice, of policy, or to the cries of suffering humanity, in adopting this amendment; that the appropriation may be made; that justice be dealt out with an even hand—as I should be sorry to believe the United States could at any time so far forget the great principles of equal rights, equal liberty, and equal law, as to give the smallest grounds for complaint to any nation, and surely the situation of these people entitles them to this appellation.

The civil dissensions which for some time so convulsed the Spanish monarchy, have at length assumed a determinate shape, and war is now no longer the war of revolution, or a civil war, but the efforts of contending Governments. This young Republic, powerful in its resources, recovering with renewed vigor from every disaster, believes herself justified by the law of nations, in demanding a recognition of her rights as a free and independent nation.

Spain, bloated with pride, inherited through a long line of ancestors, is incapable of imitating the noble and magnanimous conduct of Great Britain, who, after seven years of war with us, came forward as Great Britain ought to have done, and acknowledged our independence. Yet that Monarch, who boasts the sun never sets upon his dominion, parts with reluctance from the smallest piece of soil, and wars by withholding his assent to independence, when hostilities have ceased, through inability to prosecute them. Miserable as she is, without resources, without finances, bankrupt at home, that monarchy still lingers, like the gamester, upon the delusive hope that a fortuitous concurrence of circumstances may again bring under her dominion half a revolted world.

And now we are told by the honorable chairman of the Committee of Foreign Affairs, (Mr. FORSYTH,) that he is unwilling to make the recognition, because it will interfere with our dispute with Spain. Surely that ought not to weigh with him from whom, recollecting his declaration a few days ago on this floor, it is expected some strong measure will be proposed with regard to Spain. Is it a declaration of war? then why should he oppose this recognition? Is it a proposition to take possession of Florida? Why in that case should he oppose it? rather ought it to be a cogent reason for adopting this measure. Yet, inadequate as Spain is, to a task so unequal as that of reduc-

ing a Government fully organized since their revolution, and exercising the rights of sovereignty for years, building fleets, raising and equipping armies, and marching them to distant provinces to finish there a work which themselves had consummated—notwithstanding these strong and decided proofs of independence, exhibited in the fullest powers of government, unmolested by hostile troops within their territory, still we hear of Europe; as if, to measure justice, we should consult the frowns or smiles of another continent!

From some cause or other, lively apprehensions have arisen in the mind of the honorable chairman of the Committee of Ways and Means, (Mr. LOWNDES,) that an acknowledgment of this kind migh involve us in national difficulties. Can he, of all others, who is so well acquainted with laws of nations, hint this result of an acknowledgment, admitted by all the writers on that law, to be no cause of war? Whilst I would, with the most scrupulous care and exactness, avoid what might endanger the tranquillity of my country, I would likewise avoid whatever might give a pang to this budding Republic; and if to pursue the right, and administer strict impartiality and justice, cannot secure to this nation her amicable relations undisturbed, it would be madness or folly in the extreme, to believe any course free from the dangerous tempests which as often arise from mistaken policy as conflicting interests. I am sorry that gentleman (Mr. LOWNDES) has insinuated that the proposed measures was in hostility to the Executive; it is to be lamented that any such opinion should have escaped him; from his usual benevolence it was not expected, and if any thing has been contemplated of that kind, he might have spared those who advocate the measure from honest convictions. But against any such motive for myself I utterly protest, nor do I believe any such motive to have actuated the honorable mover of the proposition. I have been impelled by the convictions of my own mind, and, whilst ever I have the honor of a seat in this House, such only will govern me.

In this fear of giving offence, and this zeal to convince the nations of Europe of the rectitude of our intentions, are we not bound to take care of the interests of America, that she should not complain? As she has already been considered, and that too by high authority, as engaged in civil war, a situation in which all know, that in justice each party is entitled to equal rights and respect; and, as seems manifest, warring to maintain an independence which she has already wrested from the iron grasp of oppression, and ought to be regarded by the world as the germ of general emancipation. Clear as these facts seem to be, we are told, with a doubtful inquiring look, as if listening for danger, that we are observed by Europe, and that we should not excite their jealousy or distrust, as if the justice of nations was the result of fear; I know, too, there are many excellent men whose feelings are enlisted for these brave patriots, struggling against a power which still annoys them, who pause in their decision because this Hydra Europe is constantly presented to their view. Sir, it will be a black and sorrowful day to this Republic, when this imaginary course of Europe is to be held over its deliberation like a lash of scorpions to goad it on to any thing, or stop it in its course. Can that alarm the nations of Europe which is bottomed upon the law of nations, since they have been so lately engaged in apportioning that plundered continent without consulting our jealousies or our fears? For my own part I cannot imagine such fears—radically inimical as I am to an interest which of late had nearly involved us in ruinous difficulties; I have too high an opinion of the quick sagacity of the British cabinet, not to believe they would discern their own unequivocal interest in doing this act of justice. The fears of Europe! What can the petty States of Italy fear from our acknowledging the independence of the Republic of La Plata? These wretched Governments, enveloped in the legitimate fogs of Europe, are unseen in the scale of nations. What can Russia fear? Surely none can be so politically bewildered, as to believe she can fear any thing; she has her views nearer home; with a boundless extent of territory, comprising one-twenty-eighth part of the whole surface of this huge globe—a population so vast as to overturn, like a resistless torrent, every thing which opposes it; still anxious to extend her dominions to the south, and acquire territory on the Mediterranean; she will before long give employment to her neighbor there, and it were well for the powers of Europe to look to their own safety in time. Could England view a measure of this kind with jealousy or suspicion, when at this very instant efforts are making throughout Europe, not loud, but deep and dangerous, to exclude from their markets every species of her manufactures? Witness the conduct of France, Holland, Sweden, Russia, and other powers, as it regards the cotton manufactures. Witness the large private associations in these countries, binding themselves by the solemn obligation of an oath, to use their every effort to exclude from their country the use of British fabrics of every description. This, sir, is a continental system more terrible to England, or soon will be, than all the colossal power of the Great Napoleon, enforcing the same object. Is it not rather her true interest to support this infant power, even with arms, where she will find a tenfold market for her merchandise, unrivalled, and increasing perhaps for one hundred years? These then are the only powers which have any concern in these events. The rest of Europe is a mere mockery upon the independence of nations. Germany and Sweden, with her Bernadotte, any thing Russia pleases, and Prussia almost an appendage—Holland and Portugal at the disposal of England; and Spain, reposing in the embroi-

dered arms of the adored Ferdinand, dissolving by a political hectic, unpitied by the world; and France, lately the gaze of admiring millions, guided by the overwhelming genius of her Emperor, is now little else than the great garrison of Europe, with a pageant King in splendid misery in the midst of it.

But Russia, true to her own interest, has not been inattentive to the great events which have been evolving themselves in South America; her attempt to acquire territory on the Gulf of California, and even, if the news be true, upon our very borders, is a proof of this; she is willing to acquire territory by every change, and every event, for territory has been the hereditary mania of her monarchs. Unwilling to commence hostilities at all times, disappointment only results in new efforts on new objects, at distant and different points, which must eventuate, if permitted by the powers of Europe silently to progress, in her controlling the commerce of the world. England, actuated by different motives, has approved, by her conduct, and fostered those brilliant successes, by which the patriots of South America have raised to fame a column of glory so bright, as to shed a blaze of renown over half the world, and has embalmed forever the name of her heroes.

What have we done? The honorable chairman of the Committee of Foreign Affairs (Mr. FORSYTH) tells us that the patriots captured a vessel belonging to a citizen of the United States, and refused others employment in their service; that the only sympathy felt is felt by us; that the sympathy is all on our side. Then, sir, I must say they are languid indeed! for instead of those vivid sympathies which should have watered with our tears the rosy bed of immortality, on which sleep many of the heroic defenders of that Republic, we passed an act, like a one-eyed warder upon the watchtower, who sees only on one side, and calls out "all is well," whilst danger and ruin nearly approaches on the other. Sir, if our apprehensions prevent us from doing them justice, let them not induce us to do injustice; let us not impede their high destinies by a law which operates unequally, since that wonderful wisdom which willed the destiny of empires, hath willed it so, for the happiness of America and the safety of Europe; else if Spain, a few little years ago, had seen on her throne a monarch such as he who now sways the ponderous sceptre of Russia—a man whose talents and sagacity were equal to the population, the wealth, and the extent of her dominions—the crash of falling thrones would have resounded throughout Europe, and their legitimacy, instead of a protocol, would have been thundered from her cannon's mouth. If, Mr. Chairman, the United States shall turn from this question, other nations will not; England, more generous than we, will do them justice, and reap the fruits of their grateful benedictions. These colonies, for a long time settled for the purposes of commerce, had no political existence, or any part in the great agitations of the world—too distant from the mother country to feel any thing of national prejudices or predilections, they have become a new people, under the influence of a different climate, where the productions, the scenery, the physical conformation of the country, and even the very sky and the stars of heaven are so different, that nothing of the Spaniard is left but the name, and that now no more.

In vain has the fond remembrance of their forefathers endeavored to cherish the recollections of their youth, by giving to the hills, the valleys, the rivers, and mountains, of their adopted country, the names of the places of their childhood. These names no longer produce a forceful feeling; the heart has ceased to vibrate at the sound; the meaning unknown to the present generation. Under this different climate, new habits, new wants have been generated, national remembrances have been obliterated; all is new, all is changed.

Heretofore the young American, accustomed to hear his country contemned and despised, had no incentive to action. He had been told that in America all was degeneracy, all was savage, barbarous ignorance; and grave philosophers and naturalists have written books to prove the fact. Notwithstanding, he was prohibited from going to the mother country to enlighten his mind by an education, and by their inexorable laws forbidden to go even from one province to another. Thus, like a vegetable fastened to the soil, was he doomed to live, to die, and disappear forever, not even leaving a trace of his ever having existed.

Unable to govern himself, all officers of the Government, of every rank and condition, have been sent to him from Europe, to administer justice to him in his peaceable repose; but, sir, at the very sight of those officers they turned pale, and trembled at the sound of Spanish justice.

Thus have they lingered on, a listless life of acquiescence and patient resignation, for three hundred years, until this bright beam of liberty broke through the dark cloud of royalty, which had nearly overshadowed them for ever; but which, I trust, will light them to peace and to happiness as it has to independence.

If there are any doubts about their independence, from the circumstance of a part of Chili being still occupied by the royal forces, and a force of native Americans under Artigas opposed to the Republic, as stated by the gentleman from Georgia, let those doubts be dissipated when it is remembered, that, late in our own Revolutionary war, when the chances in the minds of many good men nearly poised between independence and subjugation, the celebrated battle of King's Mountain was fought between Whigs and Tories—a battle which has crowned the names of Campbell and Shelby with immortal glory—a battle which measurably decided the fate of this Republic—nor let us longer doubt, when we reflect, that, by nature, every man in America is a General for enterprises like these.

American wiles and stratagems, quick advance, attack, and fight, insure success; the slow and expensive formalities of European warfare, defeat.

These unfortunate people, sunk in despotism, have borne the contumely of all nations for their Spanish gravity, jealousy, and suspicion; but had even this been examined with indulgent kindness, it would have been found to be the mark which distinguished the slave of every country. This national gloom stamps itself upon the face of every Spaniard as soon as he is capable, from his own reflections, to distinguish that the tyranny of his Government, haunted continually by the phantoms of the imagination, has environed him with racks, and tortures, and the inquisition, where a living death of sufferance awaits more terrible than all. He dare not speak—he knows not but that every one who hears him is a spy upon his conduct—silence is his only retreat—his liberty, his property, at the disposal of any clandestine informer—his life, his reputation, his honor, at the disposal of an implacable priest, who knows no mercy or forgiveness. Well might they exclaim, with a rapturous fervor, Oh! for a revolution—it were celestial happiness compared with this!

If, in the commencement of this conflict, many bloody and revengeful acts have been committed, the noble spirits who direct the revolution cannot be implicated, or their cause condemned, nor ought it in justice to be used as an argument against them. The horrors of our own Revolution afford us proof of this, where the father and the son have been armed against each other—where cold-blooded murders have been perpetrated, butcheries and indiscriminate massacres of men, women, and children, because they were Whigs, or because they were Tories. These things, it is true, happened only in certain sections of the country, but they did take place; we have heard but little of them; the English historians seem disposed to cast a veil over them, and the American at this time is not disposed to tear it aside; then, in such a state of things, can we wonder if, in the fury of contending armies, these generous patriots should have left unpunished crimes, which, in other times, their gentler natures would have wept at with tears of the bitterest sorrow? These things should not be attributed to them, but to their true source. Attribute them to that frenzied power which sees nothing but the bloody dagger before it, and drives the most unresisting temper to madness and despair. The South Americans are now free, and long may the blessings of a republic attend them; for I am happy in being one of those who believe the liberties of a republic can be enjoyed by a Spaniard, or by any body; the enjoyment of freedom is not peculiar to any nation; all will admit that the Greeks once had it; the Romans, the Dutch, and many others, as dissimilar in their national character as the English and the French. Consult the annals of the world, and I believe it will be found, that, wherever men are capable of making an effort to obtain their freedom, they are capable of enjoying it. Then why not have the benevolence to allow these brave patriots at least a capacity for freedom, since they have given so strong a proof of it as to establish their Government through revolution and maintain it in war?

If, Mr. Chairman, the law of nations is to be regarded by a just people; if the political whirlwinds which, for some time back, so desolated the civilized world, has left them any thing but a wreck, or the hopeless resort of the weak and the impotent, I would say, that, whenever a contest became doubtful between contending powers, without any regard whatever to the manner, cause, or origin of that contest, the world at large has a right to consider them equal, and even decide between them, if necessary, and is bound to extend to the one all the other had a right to expect. The case of James II., King of England, is a clear illustration of this position, and is acknowledged by all the writers on the law of nations as correct; and if a case more strong were necessary, as being a parallel in all respects to the present, I would cite that of the revolt of the Low Countries against Philip II., King of Spain, of "exterminating" memory, already spoken of by others, but with different impressions. Their independence, they declared, was acknowledged by Queen Elizabeth, of England, the wisdom, moderation, and justice of whose government, is celebrated and acknowledged by all, even at this distant day, and places her among the most illustrious monarchs of the world. Philip remonstrated; her answer was—the law of nations gave her the right, and her interest prompted her to acknowledge their independence. Philip was content; nor did he even require his Ambassador to leave London. And is not England now precisely situated as she was then—the same necessity, nay, stronger inducements of interest? And will the present monarch, instructed by history, be less wise?

An honorable gentleman from Maryland (Mr. SMITH) has told us that the trade of the United States would receive no benefit from that country. He has told us that the article of wheat has been brought from Chili round to Brazil, or the West Indies, and sold at a lower rate than it could be taken from the United States. I would ask what the price of wheat has to do with the acknowledgment of the independence of those Republics? The inquiry has, too, been made with an air of triumph, what the United States would gain by an acknowledgment of this kind? I will not retort the question by asking what we could possibly lose by the acknowledgment; but I would ask, if it is a thing they, by the law of nations, have a right to give, without doing injustice to Spain, or any power whatever, why not grant the request?

But, sir, I contend that the United States would gain, and gain essentially, too. Certainly

nothing could be more desirable to this nation, so full of enterprise, than a free and direct trade to these countries, the most luxuriant and extensive in the world; so rich in every thing we want, and containing such inexhaustible abundance of the precious metals, and needing many things we have to spare. There is the strongest probability that our exports, instead of sixty or seventy millions, would be increased very many millions, and would be much benefited, were it only from the advantages of our contiguous situation. Nor can I perceive the force of the remarks of the honorable member from South Carolina, (Mr. LOWNDES,) luminous as he is on all subjects, when he tells us that injury will result to us, as our trade to that country, when compared with the trade of Great Britain to the same place, is according to the little book from Philadelphia, in the ratio of one hundred thousand to seven millions. Surely, if we cannot receive all or most of the benefit, it cannot be a reason why we should not receive some benefit.

But the grand object and advantage would be in systematizing a policy for America; that we might be disenthralled—that we might not feel the effects of that political plexus which has so entangled the nations of Europe, by producing those intimate connections and combinations by which the movements and operations of one power are so felt by all, as to influence their councils, and produce corresponding motions. When now we negotiate, it is in Europe; when we are inconvenienced here, we send off an Ambassador there; they are governed by the principles and policy of continental Europe, and not by any thing here. Do difficulties arise in Canada, they are adjusted in London. Do the same difficulties arise in Mexico, the province of Texas, or in Florida, it is settled in Madrid. Thus are we compelled to negotiate all our affairs upon the basis of European policy, because even the best interests of the colonists must give way to the policy of the mother country.

But when the independence of the South Americans shall be acknowledged, and they take their stand among the great nations of the earth, there will then be an American policy, and a European policy, which may, in negotiation upon just and honorable principles, be fairly opposed to each other. Nor does it militate against this position, whether, in the end, these Governments shall be imperial or royal, instead of republican, which they now are. The great interests of America will be the same; and if, unhappily, difficulties should arise exclusively on this side the ocean, there will be no European convenience to consult, delay, or obstruct their adjustment in terms of complete reciprocity.

FRIDAY, March 27.

Spanish American Provinces.

The House having resolved itself into a Committee of the Whole on the general appropriation bill—to which an amendment had been moved by Mr. CLAY to introduce an appropriation for the outfit of a Minister to Buenos Ayres—

Mr. A. SMYTH, of Virginia, said, that he was opposed to the proposition under consideration, and should contend, in the first place, that the measure proposed is an act of usurpation, an invasion of the Executive authority. Secondly, he would contend, that the conduct of the Executive branch of the Government, as respected Spain and her American provinces, has been perfectly impartial and honorable, and such as was required by the interest and honor of the United States; that, therefore, no interference on our part was necessary. And, thirdly, he would contend that the measure proposed was pregnant with evil, and may jeopardize the safety of the United States.

The constitution, said Mr. S., grants to the President, by and with the consent of the Senate, power to appoint Ambassadors and public Ministers, and to make treaties. According to the usage of the Government, it is the President who receives all foreign Ministers, and determines what foreign Ministers shall or shall not be received. It is by the exercise of some one of these powers, in neither of which has this House any participation, that a foreign power must be acknowledged. Then the acknowledgment of the independence of a new power is an exercise of Executive authority; consequently, for Congress to direct the Executive how he shall exercise this power, is an act of usurpation.

To give such direction must be an act of usurpation, if it shall have any effect. Should the direction be given, by adopting the proposition under consideration, and have effect, then the President will send a Minister to Buenos Ayres, not according to his own opinion, but according to the opinion of Congress. Then the President will perform his proper constitutional duties as Congress shall be pleased to direct. Will not this be changing the constitution, by usurpation? It is for the Executive branch of the Government to decide to whom, and when, a public Minister shall be sent. Congress undertake to decide when and to whom a public Minister shall be sent; is not this usurpation?

You possess the power of impeachment, and, consequently, may discuss, and, by resolution, express, an opinion on any past act, either of the Executive or of the Judiciary; but you have no right to give a direction to either.

The President is responsible for the proper execution of his constitutional powers; he may be punished for abusing them, or for neglect of his duty. This House is the proper body to prosecute him, if he shall fail to do his duty. We are not, in like manner, responsible and punishable. If we direct the President to do an act, however injurious to the nation it may prove, we cannot make him responsible. Is it proper thus to deprive the people of the security which they have reserved to themselves, in the President's constitutional responsibility?

The President is re-eligible at the end of four years; it is, therefore, fair that he should be left free to execute his constitutional powers; that the people may be enabled to judge the manner in which he has executed them. If you undertake to direct the President in the performance of his duties, you deprive him of the merit of those acts which the people might approve. Let it be supposed that the President intends to do the act which it is proposed that we shall direct him to do, and that the act is one which deserves, and will receive, the approbation of the people. If you shall direct him to do the act, his performance of it will be ascribed to your direction, and all the credit due to the act will be given to you, and withheld from the President. On the contrary, should the President disapprove of the proposed measure, resist the usurpation, and maintain his constitutional rights, the consequence must be, that either the President or Congress must sink in the estimation of the people.

By adopting the proposition under consideration, you will pronounce to the world, that the President will not voluntarily do his duty; and that it has become necessary that you, by directing, should compel him. You certainly intend that your direction shall have effect, and it can have no effect, unless it compels the President to do an act which otherwise he would not have done. You do not intend merely to place Congress in collision with the President; to raise an opposition to him, in case he shall have firmness enough to maintain his constitutional rights, and to act according to his own views of the interests of the United States.

The people have, by the constitution, distributed distinct powers to the several departments of the Government: the Executive power they have confided to the President, either alone, or by and with the advice and consent of the Senate; they have adopted a particular mode of electing the President, intended to secure to the office of Chief Magistrate the greatest wisdom, knowledge, patriotism, and integrity. They have a right to the free and voluntary services of the citizen whom they have selected, as possessing those qualities, to fill the Presidential Chair; a right to all the advantages to be derived from his talents and his information. And at no time has the Executive department of this Government more deserved the public confidence than at present. At no moment since the formation of the constitution, did the Cabinet possess, in so great a degree, the qualities which a Cabinet ought to possess, viz: talents, knowledge, political information, and harmony.

Yet, at the very moment when the President has his agents in those countries, which claim to be admitted to the rank of nations, for the purpose of ascertaining their true situation, and to discover what order of things will probably be ultimately established, it is proposed that you shall prematurely interfere, and that, before the desirable information has been obtained in such a mode as may be relied on, you shall, on such information as the Speaker (Mr. CLAY) has gleaned from newspapers and pamphlets, direct the President to send a Minister to Buenos Ayres. Should your interference be at any time expedient, certainly this is the most improper time to interfere. The want of information on this subject has been fully shown by this discussion. No one will pretend that the members of this House generally are well informed concerning the actual and political state of the Spanish provinces, and the contradictory nature of the information given to the committee, by those members who have taken pains to procure information, proves that we have none that is worthy of being relied on.

It is by the President only that the United States communicate, negotiate, and treat, with foreign nations. To them, as has been properly observed by the gentleman from South Carolina, (Mr. LOWNDES,) we should present a single front. The measure proposed seems, in itself, of little importance; but it will be understood by the speeches of the honorable mover, and others by whom it is supported. Thus understood, the proposition goes to degrade your President in the eyes of foreign nations. If Congress shall assume power to direct the President, this House becomes the efficient Executive. Who would be President on such conditions?

I proceed to show that the conduct of the Executive, as relates to Spain and the provinces, has been impartial, honorable, and such as comported with the true interest of the United States.

The honorable Speaker has been pleased to say, that the conduct of the Executive towards Spain and the provinces was calculated to irritate both parties, and conciliate neither. This brings to our recollection what he said on a former occasion—that the acts of the Executive had been all on one side, and bearing entirely against the colonists. This charge, which has never been answered, was made by a gentleman whose assertion will be respected as authority throughout Europe, as well as throughout this country, by those who do not examine for themselves.

If we examine those acts of the Executive which have any bearing on the contest between Spain and the colonies, it will be found, that the greater number was favorable to the patriots; and those were the result of the free will and discretion of the Executive, while the acts complained of, which have had a bearing against the patriots, were performed by the Executive in obedience to the laws, and were not the result of the exercise of discretion.

The acts of the Executive of the United States favorable to the Spanish provinces, I will notice in the order of time.

In Mr. Madison's Message of November, 1811, we find this passage: "An enlarged philanthropy, and an enlightened forecast, concur in imposing on the National Councils an obligation

to take a deep interest in their destinies; to cherish reciprocal sentiments of good will; to regard the progress of events; and not to be unprepared for whatever order of things may be ultimately established." Here is a voluntary act, favorable to the cause of the provinces; and this recommendation was followed by an act of Congress giving a considerable sum to the people of Venezuela.

The next act favorable to the provinces, was the issuing by Mr. Madison to the collector of the customs instructions to admit the flag of the provinces; by which their ships became entitled, in the ports of the United States, to every privilege granted to the ships of other foreign powers. The President was at liberty to have considered the patriots as rebels against their Sovereign, and to exclude their flag from our ports; or to consider them as a party in a civil war, and as such to admit their flag into our ports; he decided favorably to the patriots, and admitted their flag.

The next act of the Executive, favorable to the Spanish provinces, was the declaration by the present Chief Magistrate, that those provinces are parties to a civil war, in which their rights, as relates to neutrals, are equal to the rights of Spain; the President thus looking on the independence of the provinces as actually existing.

The next Executive act which has a bearing favorable to the provinces, was the construction given by the President to the law of March, 1817, respecting the neutral duties of the United States. That act, in consequence of the omission of the words "district, colony, or people," in one of its sections, perhaps admitted of a construction that would have denied to the patriots equal rights with the subjects of Spain in the ports of the United States. We have employed some time on a bill intended to remedy the defect; but the construction given by the President to the act of March, 1817, had rendered its operation perfectly equal as related to Spain and the provinces, so far as the Executive authority is concerned. In a letter written by the Secretary of the Treasury, which may be considered as official, is this paragraph: "Having declared that the flags of Spain and of independent Governments established in Spanish America should be treated in the same manner in the ports of the United States; the Executive authority would not hesitate to consider the flag of Venezuela that of a foreign State, within the meaning of the fourth section of the act."

The last act that I shall mention, manifestly favorable to the provinces, is the act of sending commissioners to ascertain what is their situation; to prevent misunderstandings; to correct errors; perhaps to redress past grievances, and prevent their recurrence in future.

These various acts of the Executive, having a bearing favorable to the patriots, and all of them resulting from the discretion of the Executive, were overlooked by the Speaker, when he said that the acts of the Executive were all on one side, and bearing entirely against the colonists.

Let us now examine those acts of the Executive of which the Speaker complains as having so unfavorable a bearing against the patriots. These are, the proclamation of Mr. Madison, issued for the purpose of dispersing the armed force collected under Toledo, in violation of the law of the United States; and the suppression by the President of the establishment at Amelia Island, made by McGregor, with a force unlawfully prepared within the United States, and maintained by Aury, who pretended to act under the authority of Mexico, New Grenada, and Venezuela.

As to the proclamation which was issued for dispersing the armed force collected under Toledo, it will be remembered that President Madison was sworn faithfully to execute his office, the chief duty of which is to take care that the laws be faithfully executed. An act provides that when the execution of the laws of the United States is opposed or obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, the President may call forth the militia; but he shall by proclamation command those who thus oppose or obstruct the laws, to retire peaceably to their respective abodes, within a limited time. The force collected by Toledo came within the meaning of the law; and Mr. Madison had no discretion to exercise. The law pointed out his duty, and he performed it.

The suppression of the establishment made by McGregor, and continued by Aury at Amelia Island, was required by the interests and the honor of the United States. The world knew that the Executive was authorized to take East Florida against any foreign power. Those who follow the profession of arms, must either be robbers or pirates, or they must have some power. The friends of Aury will not admit that he was a pirate; then they must contend that he served a foreign power. Let us admit that Aury served the Republic of Venezuela, a power whose flag is admitted into the ports of the United States, under the laws respecting the vessels of foreign powers. If Venezuela had been formally acknowledged as an independent State, the act of 1811 authorizes the President to occupy Florida against the attempt of Venezuela to take possession of it; and the want of such formal acknowledgment cannot diminish the rights of the United States. It being the duty of the President to execute the laws, and the case contemplated by the act of 1811 having happened, a foreign power having attempted to take possession of Florida, and having in execution of that attempt made an establishment at Amelia Island, the President was bound to suppress the establishment maintained there by Aury.

Had no such law existed, the conduct of the President would have been worthy of approbation. A nation has a right to protect itself from the evils of bad neighborhoods. Upon

this principle it was that the act for taking possession of East Florida was passed. So when Louisiana was transferred from Spain to France, our Minister at Paris most seriously remonstrated against the occupation of that country by the forces of Napoleon; and many of our distinguished politicians urged the expediency of taking Louisiana by war, rather than admit a dangerous neighbor to come there. Perhaps Louisiana might have been obtained by war, at an expense of one hundred and fifty millions; but the wisdom and moderation of Mr. Jefferson obtained it by purchase for the tenth part of the sum. It was to preserve herself from the evils of bad neighborhood that Prussia involved herself in war, first with Great Britain and afterwards with France, rather than have French troops in possession of Hanover. Is there any nation more interested in avoiding neighbors of a certain description than the United States? Would it be safe to allow Florida to be revolutionized by black troops? We have said, and I presume will continue to say, that no power except Spain shall come there.

I have shown that the conduct of the Executive, as respects Spain and her American possessions, has been impartial. The honorable member did not indeed say that it was partial; but he could not be understood as meaning any thing else, when the acts of the Executive were all on one side, bearing entirely against the colonists. I will now proceed to show that the conduct of the Executive, as respects those parties, has been most honorable.

I have said, sir, that the measure proposed is pregnant with evil, and may jeopardize the safety of the United States. I hope and trust that we are able to resist any combination that may be formed against us, even at this time. I am confidently certain, that in twenty years we shall be able to set at defiance the power of the world: and in a century we shall be able to give it laws. I therefore, deem it most important, that we should let the present moment of peril pass away; that we should gain time, and go on to improve our resources by the acts of peace.

If any event can jeopardize our safety, it is a war with the combined powers of Europe at this time. Sir, if a hundred measures were devised for the purpose of destroying our national existence, and this was among them, it would be the very measure that I should deem most likely to succeed. If there is a measure, the adoption of which can produce such an event, it is one which shall amount to a declaration that we are the patrons of revolutions; one, by which we shall proclaim, that, wherever a province shall make insurrection against the authority of the parent country, we will consider it our business and duty to take the new people by the hand and introduce them into the family of nations.

Sir, the coalition still hangs together. And what is their common bond of union? It is the cause of legitimacy—the cause of hereditary thrones. The combined powers have proven, that they do not mean to confine their views to Europe, by interfering in the controversy between the Courts of Spain and Brazil. Is it not the object of their holy leagues to bring back mankind to the state of mental darkness in which they were for ages subsequent to the reign of Constantine? Has not Great Britain signified to you, that the Mississippi ought to be your boundary? Has not France done the same? Has not Spain claimed that boundary? Do not these circumstances indicate concert between those powers? Shall we then, at such a time, do an act utterly useless to us, equally useless to Buenos Ayres, (for the Speaker admits, that there can be no concert between us, and that we have not the means to aid her;) an act, the effect of which will be to bring Congress and the President into collision; which act may by any possibility, however remote, involve us in a contest with the combined European powers?

Mr. TUCKER, of Virginia, said, that at this late period of the discussion, he could only claim the indulgence of the committee upon a principle, which never failed to secure to those who asked it their patient attention. He found that upon this occasion, he should be in a small minority of the delegation from his own State, and was, therefore, peculiarly solicitous of explaining the reasons of his differing from his honorable colleagues, for whose opinions he felt the greatest respect and deference. There was, indeed, another reason of no tless importance. This proposition had been supported upon a variety of principles, and by various arguments: nor would gentlemen be surprised to learn that his own views of a subject, which had so many aspects, had not been exactly presented, when they recur to the fact, that scarcely any two persons, who had spoken on this occasion, had entirely coincided. The honorable Speaker had declared himself for this proposition, but was opposed to war or the occupation of Florida. The gentleman from Georgia is against this proposition, but is in favor of the occupation of Florida. My friend from Louisiana is in favor of both; and my friend from South Carolina (Mr. LOWNDES) is in favor of neither. Among these various opinions, I am inclined to the adoption of this proposition, though I coincide otherwise entirely in the pacific policy of the chairman of the Committee of Ways and Means; an opinion which I shall probably endeavor to support upon grounds considerably different from those which have been advanced by the Speaker.

Sir, I have said, on a former occasion, that I am opposed to involving the nation in war, unless a great and important occasion shall require it. I have said, that I am unwilling to entangle ourselves in the contest now raging between Spain and the provinces of South America, but, that I would maintain an honorable, impartial, and dignified neutrality. I am opposed to war, because I see no adequate ad-

vantages to be derived from it; because the occasion does not seem to justify so important and momentous a measure; because the amount of the losses for which we seek indemnity, and of the property we wish to get possession of, bears no comparison with the hazards which we must encounter, whenever we engage in war; and, because I conceive a state of war always replete with danger to the principles of our constitution. It has long been my settled and deliberate opinion, that nothing is so apt to sap the foundation of our liberties as frequent wars. Every laurel that we gain is at the hazard of some principle of free government; every field that we win endangers some part of our constitution. The urgency must, therefore, be pressing, the necessity imperious, which drives us to war; and, were I less convinced than the gentleman from South Carolina, of the unprofitable results of a Spanish war in other respects, the consideration I have mentioned would suffice to dissuade me from giving my voice for waging it in the present state of things.

But, sir, while opposed to war; while averse to every measure which will probably lead to it, and which the honor and interest of the nation does not require, I have said that I would preserve a strict, impartial, and dignified neutrality; and I do most sincerely believe, that, in the pursuit of this end, the measure under consideration ought to be adopted.

I cannot but regret, Mr. Chairman, the manner in which this proposition has been discussed, and the remarks that have been introduced by its opposers. I allude to the harsh expressions that have been used in speaking of these unhappy people, who have long been struggling to throw off the most galling yoke, the most hateful slavery that has ever yet tortured and degraded man. The honorable gentleman from Georgia tells us, that he sympathizes in their cause, and earnestly wishes for their success. I doubt not his sincerity. Yet I would appeal to every member of the committee, whether the harsh colors in which he has represented them, and the dark picture he has drawn of their ignorance and depravity, is calculated to transfuse into other bosoms the sympathy of his own. I will appeal to himself whether his glowing language is likely to win us to their cause, and to disseminate, through the nation, an interest in their prosperity, when he represented them as having lit the torch of revolution, without possessing a sentiment of liberty; with conducting it by massacres and enormities, which render them unworthy of freedom; and with terminating it in a tyranny, not inferior to that which they have overthrown. According to this view of the subject, their Revolution has commenced in ignorance; its course has been stained by murder; its end has been the subjugation of the people; and we should feel not one emotion of pity for their sufferings, or of solicitude for their welfare. Sir, I am aware that this course of remark was, in some measure, drawn from the gentleman by the observations of the Speaker. But, while he protests against the comparison of the patriots with the heroes of our Revolution, he might have spared them, at least, the contrast which he has so vividly drawn. He tells us that they hugged their chains, and loved the tyranny; and that the origin of their Revolution had no foundation in the principles of freedom. He does not attend sufficiently, I think, to the nature of revolution, or sufficiently consider the situation of this people. What would be said of that man, who, turning over the pages of our history, should charge the sages and patriots of our Revolution with hugging their chains and loving their tyranny, because of the repeated and loyal remonstrances and memorials presented to the Crown? What should we think of the statesman, who, looking only to the surface of things, should attribute our glorious struggle to a mean and mercenary spirit, which revolted only at a twelvepenny stamp, or a trivial duty on a pound of tea? Sir, those who sat at the helm were men of profound wisdom and political sagacity; deeply versed in the knowledge of their rights as freemen, and intimately acquainted with the principles of human action; and, in conducting us over the tempestuous ocean of revolution, they looked with a steady eye to the liberties of their country, while they availed themselves of all these popular breezes, to waft the vessel of state into the haven of freedom and independence. Such may be the case with the Revolution of the Spanish provinces. We are too imperfectly acquainted with the facts which led to their convulsion to pronounce them destitute of the noble principles of liberty.

Nor are sufficient allowances made for the situation of these unhappy people for many centuries. Two or three hundred years have they been groaning under a tyranny the most oppressive that has ever overwhelmed a wretched people. Nothing parallel to the misery and slavery of Spanish America can be found in the annals of the inhabitable globe. It has been governed with an iron rod, by monarchs who have been most distinguished always by whatever is most horrible in tyranny, most detestable in bigotry, and most contemptible in imbecility. They have been involved, for centuries, in the deepest gloom of ignorance and superstition, into which it is the interest of tyrants forever to plunge the victims of their power. And when, at length, a beam of liberty has pierced the cloud which has so long benighted them, shall we be surprised that it has not, in a moment, dispelled the darkness, and spread abroad, throughout their land, the splendor of the meridian sun? Let us rather rejoice that light hath broken in upon them, and look with confidence to yet brighter moments. Let us remember that the throes of revolution are most violent where the mind has been least enlightened, nor wonder that, in the struggle to throw off the Spanish yoke, greater outrages should be committed than in our own Revolu-

tion. We are told of the massacres of their enemies, and the enormities of their Revolution. Unfortunately these are evils, too, necessarily connected with civil war. Even we were not without them. The Carolinas were the scene, during our Revolution, of events that we shudder to recollect. Brother was armed against brother—neighbor against neighbor. Our foe, too, was generous and merciful, compared with the cruel and unrelenting tyrants of those wretched and struggling people. Yes, sir, the cruelties perpetrated on the Spanish patriots by the inhuman monsters who seek their subjugation, cannot find a parallel in the annals of nations, if you except the history of Spain herself. Tear but away the page in which her bloody deeds are recorded, and you will find no parallel to her late enormities. She is, indeed, "her only parallel." And is it to be expected that, in a war like this, forbearance can be found among those who are goaded into madness by treachery and cold-blooded massacre? It is impossible!

Sir, it is for these struggling people that I own my sympathies are excited. I am not ashamed to avow them. I know it is not very fashionable to declaim in favor of liberty, and had I the disposition and the talent I should be saved the effort by the nervous eloquence of the gentleman who spoke on yesterday, (Mr. ROBERTSON.) I always listen to him with pleasure, but on yesterday with delight. His speech was dictated by a Roman spirit and a genuine republicanism—a republicanism that knows no change; which, during the lapse of nearly thirty years that I have known him, has remained unaltered and unimpaired.

There is, Mr. Chairman, another course of remark that I cannot but regret on this occasion. It has been said that this proposition implies a censure on the Executive. I am well aware that the gentleman from South Carolina did not mean to intimate any thing personal by the remark. Yet it cannot but have its effect.

[Mr. LOWNDES rose and explained, saying that, as he frequently differed from the Executive himself, he could not disapprove a similar freedom of opinion in others.] Mr. TUCKER continued—

The explanation of the gentleman was unnecessary. His uniform urbanity furnished a sufficient assurance that the remark was not intended with any personal view. But, though this is the case, yet the intimation that the proposition is not in consonance with Executive opinion is not without effect. The high standing and commanding talents of the gentleman may render it personally unimportant to him, whether his course conflicts with Executive opinion or not. It is not always so with others. The Executive branch of the Government, though it possesses not a very extensive direct influence, is vastly powerful in its indirect and reflected influence over this body. Elected by the suffrages of the whole nation, there are many who look upon him as the Northern Star of the political firmament, which alone preserves its place in the heavens, "fixed and unshaked of motion;" and by him they discern the aberrations of the lesser constellations of the system. I will not pretend to say that to a certain extent this may not have its advantages; but this I can venture to advance, that he who acts with candor and frankness, and with a sole view to the honor and interest of the nation, will not fail to receive approbation rather than censure for his frankness and independence. Our constituents will deal liberally by us so long as our motives are pure; and by this standard I am willing to be tried whenever I am found in collision with the Executive. But to whom are we to look on the present occasion in order to discern its opinions? To either of the two honorable chairmen, from whom we might most reasonably expect such information? No; they differ with each other. And the occupation of Florida, which one of them proposes, seems generally to be supposed at variance with the Cabinet opinion. Thus situated, I beg leave not only to disregard the intimation that this measure implies censure, but I utterly disavow and disclaim, on my part, any such idea. So far from it, that, according to my notion of things, the vote which I shall give will be founded on principles that confirm the propriety of the course pursued by the Government. What is the character of the proposition? It appropriates the usual sum for the outfit and salary of a Minister, for the purpose of sending a representative of this Government to Buenos Ayres, whenever the Executive, in the exercise of its constitutional discretion, shall think it advisable. It commands nothing, but it intimates, in a proper and constitutional manner, the readiness of this House to go hand in hand with the Executive in the interesting measure of opening an intercourse with the Government of La Plata, by sending and receiving Ministers. It is in this way, and in this way only, that I understand the proposition. Is there any direct censure of the Executive here? Not at all. Is there any implied? A construction which would give to it this character must be forced and unnatural. It is only upon the hypothesis of the gentleman from South Carolina that such a construction has the air of plausibility. He tells us that, as the Executive have the power, this House ought not to interfere, unless there has been culpable negligence in its exercise; unless there has been unreasonable delay in sending a Minister to a foreign power. If his doctrine be admitted as a general rule, yet cases like the present must form an exception to it. There is an evident distinction between sending Ministers to old-established Governments, and sending a Minister for the first time to a new Government, separating itself from one to which it had formerly been attached. The one leads to no dangerous results; the other, we are told by gentlemen, will put to hazard the peace of the country. You may send a Minister to Turkey or to Italy, to Denmark or to Austria,

without offending any one. But we are told that if we send a Minister to La Plata, we shall involve ourselves in a quarrel with Spain. Be it so. Is it not, then, a sufficient reason for the expression of the opinion of this House, the immediate representative of the people—the constitutional organ for declaring war—that a contemplated measure may lead to a state of war? Is it fair to expect the Executive branch of the Government to assume, alone, the responsibility of a measure involving such momentous consequences, while we stand silently by, unwilling to share the hazard of expressing an opinion? Or, is it consistent with the spirit of our constitution, that the Executive should pursue a course which leads to hostilities, without an intimation of the opinion and wishes of the nation, expressed through the legislative body, on so important a concern? I think not, sir; and so far from censuring the forbearance of the Executive, hitherto to send a Minister to La Plata, I applaud it; because, although I do not think it would give just cause of war, yet, as it might lead to a rupture with Spain, a proper respect for the rights of this body required that they should await its opinion on the subject. Nor ought they to send a Minister, or to receive one, without the sanction of the legislative body, until the lapse of time or the acquiescence of Spain shall have removed every hazard of hostility. It is, then, with a view of expressing, at this time, our willingness to go hand in hand with the Executive in this affair, whenever it shall think it advisable to act, that I shall give my support to this proposition.

But, gentlemen seem to consider this an interference with the constitutional powers of the Executive. I do not think so. This House has at all times, and on all subjects, a right to declare its opinions, leaving to the Executive to act upon them or not, according to its pleasure. Nay, it has often done more. Wherever the act to be done by the Executive has been intimately connected with the constitutional powers of this body, it has always deemed itself competent to act. Thus, before the treaty for the purchase of Louisiana was made, $2,000,000 were put at the disposal of the Government for a purchase of Southern territory. Here there was an act perfectly analogous. This body had no right to make a purchase, or to command the President to do so; but, as the purchase, if made, would have called upon the legislative body for an appropriation, it was thought advisable to make it beforehand, and thus indicate a correspondence of views on a subject, where correspondence was necessary. Could it have been said at this time, that the Executive were censured by Congress for delaying to make a purchase the interest of the nation called for? Could it then have been objected that we were trenching upon the constitutional powers of the Executive? Could it have been alleged to be useless and frivolous, because the Executive could make the purchase without a law? If not, neither can it be said now. The act of the Executive *there* would only have called for a small appropriation. The act of the Executive *here* might have the effect of a declaration of war, which it is within the constitutional powers of the legislative body alone to make. It would appear to me indeed of the utmost importance, that this correspondence of views should be preserved between these two branches of the Government. How embarrassing to the Executive must it be, if, after a treaty has been made calling for a large appropriation, this body should refuse to make it, and to sanction a contract entered into with a foreign State. How much more embarrassing if, in the exercise of its constitutional powers, the Executive should involve the nation in a war against the wishes of its Representatives. The jarring and confusion, and inefficiency that would result, might have the most fatal influence on the national success. No, sir, frankness and candor, and a free and unreserved communication of the feelings and opinions of each by the other, can never have any other than the happiest influence upon the National Councils.

The propriety of an expression of an opinion by this House on important occasions being established, it behooves us to consider the necessity of an interference at this time. Although we cannot perhaps speak very certainly of the situation of the Spanish provinces, yet no doubt can exist that a civil war is at this time raging between the colonies and the mother country. Nor can there be more reason to doubt that the power *de facto* in the Spanish province of Buenos Ayres is in the hands of the revolutionary patriots. And what is the principle of the law of nations applicable to this state of things? It is, that all foreign nations have a right to consider the two contending parties as two independent nations in all respects; that foreign nations have no right to judge which party is in the right, are justified in looking no farther than to the possession of the power, and in considering those who are possessed of the power, *de facto*, as the Government of the country. It is a wise and natural principle of the law of nations. It flows from the source of all national law: the rights of nations to protect themselves and to seek their own advantage without injury to others. Nations, it is said, treat and communicate with each other to procure commercial and other benefits; to obtain redress for injuries sustained, or to provide against their occurrence. It matters not to the neutral nation whether the parties at war are right or wrong; it may be its interest to make arrangements with both; it may be necessary to treat and communicate with each, to obtain satisfaction for wrongs, or to regulate their intercourse so as to prevent those infractions of neutral right so common in a state of war. In this view, it is only important to the neutral that the parties are possessed of the physical power of doing injuries or conferring benefits. With a people possessed of the physical power, or power *de facto*, though in a state of civil war, the laws

of nations admit the neutral to communicate as with an independent power. They consider them in all respects as sovereign for the time being, and of course they justify communications with them by Ministers. If it were otherwise, nations at peace might suffer the direst wrongs from the parties in a civil war, without the possibility of redress, since the only way of demanding it is by Ministers.

An application of these principles to our own case will show the reasonableness of the rule. Spain and her colonies are at war; should they continue hostile (as Spain did with the Netherlands for half a century, without acknowledging their independence, though they were completely sovereign) can it be believed that, according to the laws of nations, all other powers are to be debarred of the advantages of trade and commerce which they hold out? And how shall treaties of commerce be made without Ministers? Or, suppose the Republic of La Plata cruises on our commerce, or takes our shipping under illegal blockades, or attempts to enforce improper laws of contraband, or throws our citizens into dungeons, (as Spain has done with Mr. Meade,) shall we have no redress? Can we not demand satisfaction; the release of our property; the discharge of our citizens; and compensation for the injury? And how is this to be done without a Minister? And if through a Minister you make this demand, is it not a demand upon them as sovereigns for the time being? You have sent agents, or whatever they are called—(for gentlemen do not seem to agree by what name they are to be styled; they seem to be considered at present a sort of nondescripts)—and it is contended that they are not Ministers, nor invested with the mantle of ministerial inviolability—suppose they are seized and confined as spies? will you have no right to send and demand their release? And if you send another representative, shall he, too, be unprotected by the laws of nations? or will you send a Minister whom, on the principles of all civilized people, they will be bound to respect? The latter assuredly—the laws of nations would justify you, and Spain would have no right to complain; because, although the mission would acknowledge the existence of civil war, and that the power to whom you sent, held for the time being the power *de facto*, it would decide nothing as to the rights of the parties or the justice of their cause; and so long as the neutral avoids this, so long is the belligerent without just cause of complaint.

The debate here terminated; and, the question being taken, by yeas and nays, on agreeing to the proposition of Mr. CLAY to insert in the general appropriation bill a provision for an outfit and one year's salary for a Minister to the United Provinces of La Plata, it was decided in the negative.—For the motion 45, against it 115.

MONDAY, March 30.

History of Congress.

Mr. ROBERTSON, of Louisiana, from the committee appointed on the petition of Gales & Seaton, made a report thereon, which was read; when Mr. R. reported a bill authorizing a subscription to the History of Congress, which was read twice, and committed to the Committee of the Whole, to which is committed the bill to provide for the publication of the laws of the United States, and for other purposes. The report is as follows:

The committee to whom was referred the memorial of Gales & Seaton, report: That the memorialists are engaged in publishing a history of the Congress of the United States, from the commencement of the Government to the present day, and a continuation of the same history, to keep pace with the present and future transactions of that body. The memorialists solicit the aid of the Government in this their laborious and expensive undertaking. The committee are fully impressed with the importance of this work. Nothing can be more useful than a correct legislative history of the United States. It is a source of much regret that one has not heretofore existed; and now, that it is proposed to be published, there can be no hesitation in giving it encouragement. The views and opinions of the great actors on the theatre of government, are not less necessary to be known than their acts themselves. The utility of judicial reports is very generally admitted; and if the reasons of the judge ought to accompany his exposition of the law, how much more proper is it that this should be the case in respect to the views of the legislator, the author of the law itself. To a right understanding of statutes, nothing is more essential than a knowledge of the causes and motives which produced their enactment; and this can in no way be so satisfactorily obtained as by a resort to contemporaneous debate.

That the aid of Congress is necessary to this work, arises out of the great labor and expense attending it, whilst, at the same time, no adequate remuneration can be expected from its sale. The agriculturist, the merchant, the mechanic, and the physician, who purchase other books, will feel comparatively but little interest in this, however useful it may be to the politician, the historian, and the law-giver. The work will not afford amusement to the general reader; but without it the archives of the nation are defective.

Congress has not been backward in giving aid to publications of a similar character. Of the new edition of the laws of the United States, a subscription was directed of one thousand copies, before the work was commenced. Three or four hundred have been since purchased of that work, and it is now proposed to purchase eight hundred copies more. A subscription was, in like manner, authorized to Wait's edition of the public documents, and it is further proposed to purchase an equal number of copies of an additional volume of that work, about to be published. The policy is not less just than liberal, which provides for the widest attainable diffusion of whatever concerns the development of the springs and principles of our Government.

With such views it is, that at the present session, the publication of the journals of the Convention, and

of the secret journal of the old Congress has been authorized; and, with such views, the committee ask leave to report a bill "authorizing a subscription to the History of Congress."

Spanish American Provinces.

Mr. ANDERSON, of Kentucky, then rose and renewed the proposition unsuccessfully made in Committee of the Whole by Mr. CLAY, to appropriate a sum not exceeding $18,000 "for an outfit and one year's salary of a Minister to the United Provinces of the River Plata, the outfit to be paid and the salary to commence whenever the President shall deem it expedient to send a Minister to the Government of the said provinces."

The question was taken on the motion, and decided in the negative, by yeas and nays, by exactly the same vote as decided the question in Committee of the Whole, viz: yeas 45, nays 115, as follows:

YEAS.—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Barber of Ohio, Bellinger, Bloomfield, Blount, Boden, Claiborne, Comstock, Cook, Crawford, Desha, Drake, Earle, Floyd, Gage, Harrison, Herkimer, Herrick, Holmes of Massachusetts, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Merrill, Murray, New, Ogle, Owen, Patterson, Porter, Quarles, Robertson of Kentucky, Robertson of Louisiana, Rogers, Shaw, Spencer, Tarr, Townsend, Trimble, Tucker of Virginia, Upham, Walker of North Carolina, Walker of Kentucky, and Whiteside.

NAYS.—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Anstin, Baldwin, Ball, Barbour of Virginia, Bassett, Bateman, Bayley, Beacher, Bennett, Boss, Burwell, Butler, Campbell, Clagett, Cobb, Colston, Crafts, Cruger, Culbreth, Cushman, Darlington, Edwards, Ellicott, Ervin of South Carolina, Folger, Forney, Forsyth, Garnett, Hall of Delaware, Hall of North Carolina, Hasbrouck, Herbert, Hitchcock, Hogg, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Irving of New York, Kirtland, Lawyer, Linn, Little, Livermore, Lowndes, W. P. Maclay, McCoy, Marr, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Moore, Morton, Mosely, Mumford, Jeremiah Nelson, H. Nelson, Ogden, Palmer, Parrott, Pawling, Pindall, Pitkin, Pleasants, Poindexter, Kead, Rhea, Rice, Rich, Richards, Ringgold, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Settle, Seybert, Sherwood, Silsbee, Simkins, Slocumb, S. Smith, Ballard Smith, Alexander Smyth, J. S. Smith, Speed, Stewart of North Carolina, Strong, Stuart of Maryland, Tallmadge, Taylor, Terrill, Terry, Tompkins, Tucker of South Carolina, Tyler, Wallace, Wendover, Westerlo, Whitman, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilkin, Wilson of Massachusetts, and Wilson of Pennsylvania.

The bill was then ordered to be engrossed for a third reading.

TUESDAY, March 31.

The Cumberland Road.

The orders of the day being announced, on the bill making appropriations; the first, $52,984, to pay the claims now due at the Treasury; and the second, of $260,000, to meet the demands that will be made under existing contracts, towards completing the Cumberland road—

Mr. SPENCER, of New York, rose, and moved that the Committee of the whole House be discharged from the consideration of the bill, and it be postponed indefinitely.

This motion brought on a short debate on the merits of the bill; in which the postponement was advocated by the mover, by Mr. BASSETT, and Mr. LIVERMORE; and opposed by Messrs. TUCKER of Virginia, HARRISON, TARR, PINDALL, BEECHER, TRIMBLE, MERCER, and SMITH of Maryland.

The question on postponing the bill was finally negatived—yeas 56, nays 82.

The House then resolved itself into a Committee of the Whole, on the above bill.

WEDNESDAY, April 1.

Cumberland Road.

An engrossed bill, entitled "An act making further appropriations, for the construction of the Cumberland road," was read the third time. And on the question, "Shall it pass?" it was determined in the affirmative—yeas 74, nays 56.

Sword to Colonel Johnson.

A resolution awarding a sword to Col. Richard M. Johnson, in consideration of his valor and good conduct at the battle with the combined English and Indian forces on the river Thames, in Upper Canada, on the 5th of October, 1818, was read twice and put on its passage.

Mr. CLAIBORNE rose to offer an amendment to the resolution. While the House was dispensing rewards, he said, for meritorious services, he wished to introduce to attention the names of two other characters. One was Major General Carroll, of Tennessee. That officer was engaged in the public service from the commencement of the late war to its glorious termination at New Orleans. Mr. C. briefly recapitulated some of the distinguished services which this officer had rendered. He had organized the force which repaired from Tennessee to the defence of New Orleans, and which by its rapid march under the direction and exertion of Gen. C., had reached that place in time to save the city from the enemy; and he had rendered other services too prominent to need being mentioned, and which would not permit him to be overlooked on this occasion. Mr. C. next mentioned Brigadier General Coffee, whose name was familiar to every one. At the commencement of the war that officer volunteered his services, and by his zeal and influence induced a great many others to enter the service. For his merit he was promoted from captain of a mounted company to the command of a brigade; and his gallant conduct in the Creek war, at Talladega, at New Orleans, &c., had proved him worthy of the distinction. Mr. C. con-

cluded by moving to insert the names of these officers in the resolution.

Mr. POINDEXTER rose to second the motion of the honorable member from Tennessee. The distinguished services of General Carroll, from the commencement of the Creek war to the close of the late contest with Great Britain, Mr. P. said, were known to the nation, and appreciated by all who witnessed his meritorious conduct. At the critical and interesting period, when a powerful and well-disciplined army of the enemy invaded the State of Louisiana, and menaced the city of New Orleans, the exertions of General Carroll were particularly conspicuous, and eminently contributed to the glorious result which gave security to that city and renown to the arms of our country. The division of militia from the State of Tennessee, under his command, destined to participate in the defence of the Southern frontier, descended from Nashville to New Orleans with unexampled rapidity, and arrived at a moment the most auspicious to the safety of that important point. Without this reinforcement General Jackson would have been destitute of the force called for by that great emergency. The consequences of such deficiency might be imagined. During that memorable campaign, the gallantry of this corps and of its intrepid commander elicited the thanks of a grateful people, and of the illustrious General under whom they fought and conquered. I accord my hearty assent, said Mr. P., to the proposition made by the gentleman from Tennessee to reward these services by a suitable manifestation of the national gratitude. But Mr. P. suggested to him the propriety of presenting it in a distinct resolution, properly digested and matured.

Mr. DESHA made a few remarks in support of the expressions of the resolution, as to the gallant conduct of Colonel Johnson, on the occasion referred to. He was present when those services were performed, and could bear testimony to the intrepidity displayed by Col. J.

Mr. CLAIBORNE, according to the suggestion of Mr. POINDEXTER, withdrew his proposition for the present; and the resolution then passed *nem. con.*

THURSDAY, April 2.

Honors to the Brave.

Mr. CLAIBORNE, agreeably to the intimation which he had yesterday given, to submit a resolution for awarding to certain officers testimonials of the respect of Congress for their distinguished services, offered the following joint resolution:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested to cause gold medals to be struck, with suitable emblems and devices, and presented to Major General William Carroll and Brigadier General John Coffee, in testimony of the high sense entertained by Congress of their gallantry and good conduct in the several conflicts during the late war, at Talashatchie, Taladega, Enotochopko, Emuckfaw, Tehopeka, and New Orleans.

Resolved, That the President be requested to cause a gold medal to be struck, with suitable emblems and devices, and presented to Major General Joseph Desha, in testimony of the high sense entertained by Congress of his gallantry and good conduct in the conflict of the river Thames, in Upper Canada.

Mr. CLAIBORNE said he had not yesterday named General Desha, in the remarks he then made; it escaped his recollection at the moment; but that officer was well entitled to the notice of the House. General Desha, it would be recollected, had left his seat in Congress, in the Summer of 1813, when the Northwestern campaign was a subject of great anxiety, and joined the Northwestern army, as commander of a division of Kentucky troops, and to his intrepidity and good conduct was in a great degree owing the result of the battle on the Thames. On that occasion he occupied, with his division, a situation of imminent danger; and at a moment when the enemy pressed with great force on that part of the line, it was by General Desha's courage and example, and denouncing death to the first man that broke, that the ground was maintained, the tide of victory turned, and the day crowned with success. Mr. C. next turned to the services of Generals Carroll and Coffee, and enforced what he had yesterday said of them, by referring again to the various instances of the zeal, activity, and bravery which had characterized their conduct, and which, under the Almighty, had saved the city of New Orleans from a ferocious enemy.

Mr. HARRISON said, that with regard to the conduct of General Desha, in the action on the Thames, he had mentioned it with approbation in his official report of the action, and he now repeated that he there performed his duty, and did every thing that he could do. But, so did General Henry, who was third in command, whilst General Desha was fourth; they stand in that respect, perfectly on an equality.

Mr. H. moved, therefore, that the name of General William Henry be inserted in the second resolution. Mr. H. gave some explanations of the positions occupied by the two divisions in the action, and stated that it was the division of General Henry which occupied the front line, and was most pressed by the enemy; that of General Desha formed with it a right angle, and though less exposed, yet General Desha himself, he believed, was at the point of junction where the fire was most heavy.

Mr. CLAIBORNE had not called to mind the particular circumstances of the affair, or doubtless he should have recollected the name of General Henry, and would have included him in the resolutions which he had offered. These were honorary rewards that cost the nation little, and he was always willing to bestow them upon gallant services. He had intended to propose swords on this occasion, but he found, by

the precedents, that medals were more customary, though the cost of the latter was perhaps not less.

Mr. OGLE suggested a doubt whether, if these resolutions passed, it would not be proper also to seek out the meritorious officers of the Revolution. He had no objection to voting a medal to each of the gallant officers named, but protested against selecting the officers of the late army, and passing by those of the Revolution, for, if the former merited one medal, those of the latter deserved two, and he moved that the subject be referred to the Military Committee, that resolutions might be reported conformably to his ideas; or at least that the distinguished officers of the Revolutionary Army might be included in these honorary rewards.

Mr. COLSTON, though feeling the highest respect for the officers mentioned, and for their eminent services, yet objected to these resolutions on the ground that it was neither customary nor proper, in voting these rewards, to go below the commander of an army who had to bear the disgrace of defeat, and who it was right should reap the rewards of success; that to pursue a different course would involve the necessity of awarding the same to numerous other cases, as there were at least fifty others who had rendered important services and were entitled to notice; and it was better to stop, or Congress would be overwhelmed with cases of this kind, &c. Mr. C. referred to the evils which he had witnessed in Virginia, of making these rewards too common; and referred to the circumstance of the Legislature of that State being called on to appropriate fifteen thousand dollars, at one time, for the purchase of medals, &c., which had been voted to gallant officers from that State. He had opposed the practice then, and felt himself bound, however high his sense of the merits of the distinguished officers in question, to do it here.

Mr. SMITH, of Maryland, said a few words to Mr. CLAIBORNE, to show that the vote of a gold medal had always been considered a higher honor than to bestow a sword, and that medals had, therefore, been generally given to the Commander-in-chief of any army, and swords to the inferior officers.

Mr. CLAIBORNE observed, in reply to Mr. COLSTON, that the services of the officer named in the first resolution were as important and valuable as those of any Commander-in-chief in the nation; and if these distinctions had been granted in numerous other instances, as he could show they had been, it was highly proper they should be in this case, particularly when some who had received the honor had not served so long, nor rendered services half so important as the officers he now brought forward in the first resolution. Mr. C. then referred, severally, to the resolutions voting thanks and medals to General Brown, to General Scott, to Generals Ripley, Miller, and Porter, to General Gaines, and to General McComb, accompanied by thanks to their officers and men, and relied on these resolutions to show that the honors of Congress had not been confined to the Commanders-in-chief, but, on the contrary, they were nearly all subordinate officers, and some not higher than the rank of Colonel. Generals Carroll and Coffee, if they had not the reputation of Commanders-in-chief, deserved the applause of saving a city from a merciless enemy, whose rallying words were "Beauty and Booty." Mr. C. adverted to the circumstances under which these officers received the news of the danger of New Orleans, and the great exertions which enabled them to reach it in time. Coffee was returning home from the Creek war, with an exhausted army, when information of the danger of New Orleans reached him at Baton Rouge. With his exhausted men and worn-down horses he instantly started for the scene of action. No rest did he permit himself, day or night, but hastened with a celerity unexampled and astonishing, and arrived just in time to save the city, and win a conquest which will ever be regarded as a most important and most glorious one. Would the House deny to such men as these the poor and pitiful reward now proposed? Carroll had been twice wounded in the Creek war, and was called on, at a moment's warning, to repair to New Orleans. He hastily collected his troops, organized them for the field in less time than was ever known, and with a rapidity never witnessed before, by his unwearied exertions reached the city just in time to insure the victory and share in its glory. Mr. C. agreed to what had been said about the Revolutionary veterans, but hoped, if it was thought proper to reward them in this way, that gentlemen would bring them forward in a separate proposition, and he would cheerfully support it. If he asked for what was not given to others, turn them away. If he asked for what they did not deserve, turn them away. But if he asked for them what others had received, and which they deserved much more than some who had received this distinction, he hoped it would not be denied to them.

Mr. HOPKINSON made a few remarks to dissuade the House from adopting these resolutions. It was a painful task to urge this course; but, he said this House had no wealth to bestow; these honors were all it had to give; they ought, therefore, to be given sparingly, and not wasted. The honors of Congress ought not to be given, he said, for fidelity, for diligence, and bravery, because these were to be expected, and belonged to every American officer; but were intended for some signal action above all, to be rewarded above all. Instead of confining these marks of distinction to proper occasions, all history did not furnish as many of them as the history of this country for the last two or three years, and the practice was so common that it would cease to be any distinction at all. Mr. H. did not make these objections from any insensibility to the gallant services of the officers referred to by Mr. CLAIBORNE; but, besides his opposition on national grounds, he thought that delicacy towards these

officers themselves ought to forbid the passage of the resolutions. It was now three years since the close of the war, and the public would ask why these officers had not received this reward before; why, for the first time, they were brought forward at this late day? And, after being so long neglected, might not the proceeding now be imputed to personal favor? Mr. H. concluded by moving that the resolutions lie on the table.

Mr. POINDEXTER hoped that the motion to lay the resolutions on the table would be withdrawn, that the two resolutions might be separated, and the sense of the House taken on each by itself. The subject of the Northwestern and of the Southern officers ought, he thought, to be introduced separately, and then gentlemen in the House, acquainted personally with the officers in the two armies, could speak of them, respectively, from their own knowledge. He supported the propriety of adopting these resolutions by referring to the votes of thanks, &c., which had been passed at this very session, and the sword which only yesterday was awarded to a gallant officer. To reject the cases now before the House, under those circumstances, would be invidious as well as unjust.

Mr. RHEA hoped the resolutions would not be laid on the table. Had they not been brought forward at all this session he should have been satisfied, because the reputation of these gallant men was too well secured to make this distinction necessary; but as the resolutions had been offered, he was anxious they should not be rejected. These brave men did not rest when they were going on the floods to meet the enemies of their country, and he hoped the resolutions for rewarding them would not be allowed to rest on the table, but would be adopted.

Mr. HARRISON again rose to bear testimony to the gallant services of the gentlemen of the Northwestern army, and took the opportunity of expressing briefly his sense of the distinguished honor which he had recently himself received at the hands of Congress—a reward more dear to him than any other that could be conferred on him, but which he must look on as due to the gallant army which he had the honor to command, rather than to his merits, &c.

After some further opposition by Mr. CLAIBORNE to laying the resolution on the table, the question was taken on that motion and carried—ayes 58, noes 54.

FRIDAY, April 3.

State of Illinois.

The House resolved itself into a Committee of the Whole on the bill to enable the people of Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on a footing with the original States.

Mr. POPE moved to amend the bill by striking out the lines defining the boundaries of the new States, and to insert the following:

"Beginning at the mouth of the Wabash river; hence up the same, and with the line of Indiana to the northwest corner of said State; thence east with the line of the same State to the middle of Lake Michigan; thence north along the middle of said lake to north latitude 42 deg. 30 minutes; thence west to the middle of the Mississippi river; and thence down along the middle of that river to its confluence with the Ohio river; and thence up the latter river along its northwestern shore to the beginning."

The object of this amendment, Mr. P. said, was to gain, for the proposed State, a coast on Lake Michigan. This would afford additional security to the perpetuity of the Union, inasmuch as the State would thereby be connected with the States of Indiana, Ohio, Pennsylvania, and New York, through the Lakes. The facility of opening a canal between Lake Michigan and the Illinois river, said Mr. P., is acknowledged by every one who has visited the place. Giving to the proposed State the port of Chicago, (embraced in the proposed limits,) will draw its attention to the opening of the communication between the Illinois river and that place, and the improvement of that harbor. It was believed, he said, upon good authority, that the line of separation between Indiana and Illinois would strike Lake Michigan south of Chicago, and not pass west of it, as had been supposed by some geographers who had favored us with maps of that country; and, Mr. P. added, that all the country north of the proposed State, and bounded by Lakes Michigan, Huron, Superior, and of the Woods, and the Mississippi river, must form but one State, Congress being restricted, by the ordinance of 1787, from erecting more than five States in the Northwestern Territory.

This motion was agreed to without a division.

Mr. POPE then moved further to amend the bill by striking out that part which appropriated the State's proportion of the proceeds of the sales of the public lands to the construction of roads and canals in said State, and to insert the following:

"For the purposes following, viz: two-fifths to be disbursed, under the direction of Congress, in making roads leading to the State; the residue to be appropriated by the Legislature of the State for the encouragement of learning, of which one —— part shall be exclusively bestowed on a college or university."

Mr. P. said that the fund proposed to be applied for the encouragement of learning had, in the other new States, been devoted to roads; but its application had, it was believed, not been productive of the good anticipated; on the contrary, it had been exhausted on local and neighborhood objects, by its distribution among the counties, according to their respective representation in the Legislature. The importance of education in a Republic, he said,

was universally acknowledged; and that no immediate aid could be derived in new counties from waste lands was not less obvious; and that no active fund would be provided in a new State, the history of the Western States too clearly proved. In addition to this, Mr. P. said, nature had left little to be done in the proposed State of Illinois, in order to have the finest roads in the world. Besides, roads would be made by the inhabitants as they became useful, because the benefits are immediate; but not so with endowments to schools. The effects of these institutions were too remote. Nor would the interest of the United States be impaired by this plan. The land on the roads was generally private property before the opening of the road; and the benefit resulting to the United States from the stipulation would be found alone in the exemption from taxation, for five years, of lands sold in the State.

This motion was also agreed to without a division; and after receiving some further amendments, the most important of which was one moved by Mr. TAYLOR, to exempt the soldiers' bounty lands in the State from taxation for three years—

The committee rose and reported the bill to the House, and it was ordered to be engrossed, as amended, and read a third time, *nemine contradicente.*

History of Congress.

On motion of Mr. SERGEANT, the House proceeded, by a vote of 60 to 58, to consider the report of the Committee of the Whole on the bill authorizing a subscription (of one thousand copies) to the History of Congress, proposed to be undertaken by Gales & Seaton.

The House having refused to concur with the Committee of the Whole, in striking out the first section of the bill, Mr. S. with a view of removing the objections made by some gentlemen to the bill in its present shape, moved to add to the first section the following proviso:

Provided further, That, before receiving any payment on account of said work, the publishers shall enter into bond in a penalty of twenty thousand dollars, with security to be approved by the First Comptroller, that the said work shall not exceed ten volumes in extent, to be brought up to the end of the second session of the fourteenth Congress, and shall be completed within ten years from the day on which the first payment on account thereof is demanded: *And Provided, also*, That nothing in this act contained shall be construed to preclude Congress from rescinding their subscription to the said work, whenever it shall to them seem expedient.

This amendment was agreed to without a division; when Mr. HITCHCOCK moved to reduce the subscription from one thousand to one hundred copies; which motion he afterwards modified, by moving two hundred and fifty.

This motion was opposed by Mr. SERGEANT, because, he argued, it would be equivalent to a rejection of the bill; as the great labor of the compilation, the expense of preparing the work for the press, the expense of printing volumes of the magnitude proposed, &c., could not be undertaken without aid from Congress, to the extent proposed by the select committee; and because a work of this nature could not depend on private subscription, &c. Mr. S. also enforced and enlarged on the national importance of the work proposed, as well as its importance to Congress in its legislative business, &c.; in which he was supported by Mr. SIMKINS, Mr. JOHNSON of Kentucky, and Mr. LIVERMORE.

The bill was opposed earnestly by Mr. PITKIN, Mr. HITCHCOCK, and Mr. BUTLER, principally on the ground of the expense, and the unimportance of the work compared with that expense.

Mr. HITCHCOCK's motion to reduce the number of copies to be subscribed for was agreed to —ayes 74, noes 56—when, on motion by Mr. BASSETT, the bill was ordered to lie on the table.

THURSDAY, April 9.

Case of R. W. Meade.

The House, on motion of Mr. TRIMBLE, took up the report of the select committee on the resolution of the 12th February, and the memorial of sundry citizens of Philadelphia, respecting the imprisonment of Richard W. Meade, by the Spanish Government. The report concludes with recommending to the House the adoption of the following resolution:

Resolved, That the House is satisfied that the imprisonment of Richard W. Meade, is an act of cruel and unjustifiable oppression; that it is the right and duty of the Government of the United States to afford to Mr. Meade its aid and protection; and that this House will support and maintain such measures as the President may hereafter adopt, to obtain the release of the said R. W. Meade from confinement, should such measures be proper and necessary.

The resolution having been read, Mr. TRIMBLE proposed the following substitute therefor, by way of amendment:

Resolved, That the demand made by the President of the United States upon the King of Spain for the liberation of Richard W. Meade, a citizen of the United States, detained in confinement at the Castle of Santa Catalina, at Cadiz, ought to be supported and enforced, by vesting in the President an authority to make a reprisal upon a Spanish Consul, in the event of a failure on the part of Spain promptly to discharge the said Meade.

Mr. TRIMBLE rose in support of his motion, and addressed the House as follows:

If I may find favor in the sight of the House, I would ask a short indulgence at their hands. I know how much they are exhausted in the consideration of various complicated questions, touching our internal prosperity and exterior relations; and I am more than sensible of my utter inability to repay their attention with a fair equivalent.

The resolution reported by the committee is,

in my opinion, unequal to the emergency of the case—I would prefer a stronger measure. Had the vindication of this amendment fallen to the lot of some members whom I could designate, they would tell us a round, unvarnished tale, that would nail us to our places—a tale that would "rouse the slumbering dead to hear." They would show you a captive through the gratings of his prison window; that captive a citizen and brother, your agent and vice consul, languishing in a foreign dungeon, unpitied and forgotten; secluded from the cheerful light of day; bereft of all the endearments of social life—the solace of children, wife, and friends, and peaceful home—pining and wasting away in misery and despair, with but one solitary ray of hope, "that gleams from the star-spangled banner which waves over the land of the free and the home of the brave." But I have no thoughts that scald, or words that burn, or plaintive tones of supplication, that would wring reluctant succor and compassion from Congress and the nation. Mine are humble powers, that have no eloquence of speech, save what the subject lends to grace its memory. Let no man judge me of meaning more than I explain. In the full spirit of candor, I declare, before the highest of all tribunals—the Judge of quick and dead—that, if I know myself, there is no temptation which would induce me to do a deed that would bring dishonor on my country; and I swear by all that is sacred in me, that in my opinion we are bound in duty, in justice, and in honor, to give this citizen immediate succor, even at the hazard of our lives. Suppose a change of cases, and I and you, and all of us would ask it and expect it. Let us remember the golden rule of him who spake as never man spake—let us do to others as we would have them do to us; for on this hangs the duty of the nation. If the measure which I offer and advocate is dangerous or premature, there is a redeeming spirit in the superior wisdom and better judgment of the House, which will shield us from its consequences; and I am sure there is a *fund* of charity within these walls that will forgive the well-meant, but mistaken zeal, which may lead me beyond the boundary of cold caution.

Permit me to waste a few moments in glancing over the facts, as reported. I intend to rely entirely on the evidence of the Spanish documents, and for that reason shall omit many considerations which give a favorable color to the case; as, for instance, Mr. Meade's loan of forty thousand dollars in cash to the Regency, to assist them in suppressing a mutiny of the troops at Cadiz; the enormous sum of more than half a million which they owe him for property sold the Government; and the fact of his being put under military guard until his warehouses were pillaged by order of the Regency, because he refused to sell any more property, flour, tobacco, &c., until he could get pay for what they already owed him. Let these, and many others like them, pass for nothing. The naked case is this: Mr. Meade held in his hands about fifty-two thousand dollars, as trustee under the bankrupt laws of Spain, subject to the direction and control of the Consulado at Cadiz. One Glass claimed this money for himself; and one Hunter, by his agent, (McDermot,) also claimed it. The Consulado ordered the money to be paid to McDermot, on condition that he would give security. This he failed to do, and the Consulado suddenly made an order, directing Mr. Meade to deposit the sum in the King's Treasury. He made the deposit in "effective specie," which the same treasury owed him, viz: in *libramientos*—that is, treasury notes or cash scrip. These treasury notes may have been at a discount in the market, but that could make no difference; for it would have been more than dishonest in the treasury to refuse its own paper, because it was at a discount. Between Meade and the treasury there was no ground of complaint, and could be none; for, if he had paid the deposit in specie, the treasurer must have instantly repaid it to him, in discharge of the *libramientos*—that is, treasury notes—and the result would be exactly the same. And as Meade was then pressing the treasurer to pay his cash scrip, it is easy to see that the treasurer obtained a respite from further importunity, until Glass or Hunter should call for the money at the end of their lawsuit.

Some time after this, McDermot brought suit against Mr. Meade for the same sum, before the same court. He pleaded their order and the deposit in the King's treasury, and vouched the treasury to respond the money; but the court gave judgment that he should pay again. He appealed at the Alzadas, and the cause was withdrawn from that court by the Council of War, at the instance of McDermot; and it is still pending before the Council of War. Mr. Meade petitioned the King against the oppressive conduct of that court, and the King ordered five new judges to be associated with the old ones, and directed that no proceedings should be had in the cause, in the absence of the new judges. McDermot suggested to the Council of War, that Meade was about to leave Spain, and the old judges, in the absence of the new ones, and contrary to the King's order, authorized the Consulado at Cadiz to hold Meade to security for the money; and the Consulado resolved, that the only security they would take should be another deposit of the money in their Treasury. This Meade refused to do, and he was sent to the castle, and put in the felons' prison. Other aggravating facts and circumstances may be found in the documents sent by the President in his Message on this subject.

Our Minister near the Court of Madrid complained of these outrageous proceedings, as a violation of the 7th and 20th articles of the treaty of 1795, and also a violation of the laws and usages of Spain, and the King expressed his entire disapprobation of the conduct of the courts, and ordered that justice should be immediately done in the cause; but at the same

time issued an order, directing the proceedings to be suspended as long as possible, suggesting as his reason for this, that in any event, his treasury must refund the deposit as soon as the cause should be decided; and that he had no money in his treasury to refund. This is said at the time when his Minister of Finance states in his exposé to the King, that the annual expense of the King's household amounts to seven millions of dollars. And this is what Don Onis calls "Immaculate Purity," and I would say that it caps the climax of Spanish villany and treachery. I challenge all history to produce its parallel. Are we not bound to protect this citizen against such a flagrant outrage? I read in the books that nations are in a state of nature, and have only two modes of compelling each other to do justice; war and reprisal. I say nothing of big words hung up in resolutions. They are the index of imbecility; the mask of cowardice. I abjure all hectoring, and gasconading, and gostering between nations or individuals. In this case war would only increase the injury by protracting the confinement. Reprisal is the only efficient remedy. The amendment before you proposes, that a law be passed, authorizing the President (in the event of a failure on the part of Spain, to liberate this citizen) to make reprisal by seizing a Spanish subject, a consul or vice consul, and confine him as a hostage. This will support the President in his late demand, and put a weapon in his hand to chastise the insolence which Spain may offer to this Government in the reply which she may make. So far as precedent goes, this amendment is supported by the law of 1799, which authorized and required the President, ADAMS, to make reprisals upon French citizens in the cases there mentioned. If examples are called for, they are to be found in the history of every nation. The world would never be at peace, if all causes of complaint were redressed by war. Humanity and sound policy approve the practice of reprisals, and require that it should sometimes be resorted to. Why should a nation change its peaceful habits, and gird on the armor of war, and waste millions to obtain redress for an injury, which can be redressed by the seizure and confinement of a single individual? Would you spill the blood and squander the treasure of your own people, where redress can be obtained by the pressure of coercion on the people of your adversary? Shall this outrage be placed upon the calendar of grievances, to be discussed upon thirteen years forbearance? Promptitude is justice in a case like this. If it must terminate in a war of words, we have proof positive that Mr. Adams can drive Don Onis from the field of battle; but, in my opinion, we have retreated far enough from Spain; and unless we make a stand upon reprisal, we shall take shelter behind the ramparts of disgrace.

When I had the honor of presenting the resolution for reprisals, some objection arose because it did not define the nature and extent of reprisals meditated. In this amendment I have attempted to obviate the objection. But it is due, in candor to the House and nation, that I should so explain myself, that no one can mistake me. In the event of a failure on the part of Spain to surrender Mr. Meade, upon the late demand, I would seize a Spanish subject and Consul of equal property and respectability, as a hostage; confine him at Castle William in the harbor of Boston, and treat him, in all respects, as it shall be made to appear that our citizen is treated at the Castle of Santa Catalina. That would be equal justice—subject for citizen, Consul for Consul, castle for castle, and treatment for treatment. No, sir, I humbly crave the pardon of my country—that would not be equal justice—for as "one day, one hour, of virtuous liberty is worth a whole eternity of bondage," so, also, one honest, upright, independent freeman is worth a kingdom, an empire, of servile, crouching, sycophantic Spanish slaves.

I will not say that this amendment has been drawn up with all the skill and scholar-craft which might have been employed in its production; but I will boldly affirm that the redress which it indicates, is more than justified by the case, and fully supported by the laws and usages of nations. I know not what others may think on this subject, but, for myself, I have no hope of redress but from coercion—for that sovereign who forfeits his word of honor, and brings his reputation and his justice into question, will not easily unhand his victim or forego his vengeance. I am, therefore, bold to say that I will use retortion. The States surrendered to the General Government the right of making reprisals; and, in their name, I ask you to exercise the power—I demand it in the name of the people. Gentlemen may shake their heads, if they mean to say that the demand is too broad—that I have no right to speak for them and their States. Then, sir, I demand it in the name of the people whom I represent—in the name of the State from whence I come. I know them, and can speak for them—I know their love of liberty and hatred of oppression, and will answer for their readiness to support the honor of the country, and their promptitude in chastising all infractions of personal liberty.

Mr. HOPKINSON, of Pennsylvania, expressed his belief that the report of the committee went as far as the duty of this House required it to go in such a matter. There was a limit beyond which it was improper to go, in an affair intrusted to the Executive; and Mr. H. hoped, that what had been done by the Executive would be found amply sufficient for all the purposes of this case. The first movement in this business had been made by this House; the President had, in consequence thereof, opened a correspondence with the Spanish Minister in a very decided and dignified manner; and the report of the committee is, that this House will support the Executive in any further measures to obtain the release of Mr. Meade, which shall be just and necessary. In doing more than

this, at present, Mr. H. asked if the House might not proceed, without distinctly seeing the result? But Mr. H. wished to see something of the practical effect of the proposition; with that the gentleman had not favored the House. The resolution offered by the gentleman from Kentucky authorized the President to make reprisal for the imprisonment of Mr. Meade—to seize a Spanish subject, and confine him in prison until Meade shall be released. Now Mr. H. denied that this Congress could give the President any such despotic power. Every man in this country, whether foreigner or citizen, is under the protection of the laws. Who was the President to select for reprisal? Shall he, as is suggested, by some unknown process, seize a Consul, living under our laws, and lodge him in jail, uncharged with debt, or crime, or any violation whatever of the laws of the land? If despotic Governments do these things, we should avoid, not follow, the example. We, said Mr. H., must follow the course of the laws, and cannot depart from it. There was no process, he said, by which a man could be seized and imprisoned in this country, because a citizen was improperly imprisoned in a foreign country. There was nothing in the laws of nations, or our own laws, to justify it. The case quoted by Mr. TRIMBLE was an authority given to the President to make reprisals when we were actually in a state of war. Such acts might be proper in a time of war, but not in a time of peace like the present. Mr. H. admonished the House not to stretch this thing too far, in their anxiety to obtain justice for the citizen in question. He knew Mr. Meade and his family, and his feelings were as strongly excited to their sufferings as any gentleman's; and he wished to do every thing to produce his liberation which was consistent with propriety. Did the gentleman mean to make this a subject for war? Yet there was no act beyond the one proposed by him but war. What precedent, or law, Mr. H. asked, could the gentleman find for the reprisal he recommended, and what would prevent the judges from discharging any man, brought up by habeas corpus, from such an arrest? Mr. H. contended, that the report of the committee was sufficient for the present, and went far enough. Hereafter, after it was seen what effect the President's remonstrance should produce, stronger measures might be taken, if it should be found necessary—even war itself.

The question was then taken on Mr. TRIMBLE's substitute, and decided in the negative, only about fifteen rising in its favor; and the resolution reported by the select committee was agreed to without a division.

FRIDAY, April 10.

A message from the Senate informed the House that the Senate have disagreed to the amendment proposed by this House to the bill, entitled "An act to make valid certain acts of the justices of the peace in the district of Columbia." They have passed the bill, entitled "An act to provide for the publication of the laws of the United States, and for other purposes," with amendments. They have also passed bills of the following titles, viz: "An act for the relief of John Hall, late a major of marines;" and "An act in addition to an act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord, 1808, and to repeal certain parts of the same;" in which amendments and bills they ask the concurrence of this House.

Fugitives from Justice and Service.

A motion was made by Mr. PINDALL, that the House do now proceed to consider the amendments proposed by the Senate, to the bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory." And the question being taken thereon, it was determined in the negative—yeas 63, nays 73, as follows:

YEAS.—Messrs. Abbott, Austin, Baldwin, Bassett, Bloomfield, Blount, Colston, Cook, Culbreth, Desha, Earle, Floyd, Forney, Forsyth, Garnett, Hall of North Carolina, Herbert, Hogg, Johnson of Virginia, Johnson of Kentucky, Linn, Little, Lowndes, McCoy, Marchand, Mason of Massachusetts, Mercer, Middleton, Miller, Moore, Mumford, H. Nelson, T. M. Nelson, Ogle, Owen, Parrott, Peter, Pindall, Pleasants, Poindexter, Reed, Rhea, Ringgold, Robertson of Louisiana, Ruggles, Sampson, Sawyer, Settle, Simkins, Slocumb, S. Smith, Ballard Smith, Alexander Smyth, J. S. Smith, Speed, Spencer, Stewart of North Carolina, Strother, Trimble, Tucker of South Carolina, Tyler, Walker of North Carolina, and Williams of North Carolina.

NAYS.—Messrs. Adams, Allen of Vermont, Ball, Bateman, Benuett, Boden, Boss, Campbell, Clagett, Crafts, Cruger, Darlington, Drake, Ellicott, Gage, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Heister, Hitchcock, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Ingham, Irving of New York, Jones, Kinsey, Kirtland, Lawyer, Livermore, W. Maclay, W. P. Maclay, Mason of Rhode Island, Merrill, Morton, Mosely, Murray, Jeremiah Nelson, Palmer, Patterson, Pawling, Pitkin, Porter, Rice, Rich, Richards, Rogers, Savage, Scudder, Sergeant, Shaw, Sherwood, Silsbee, Tallmadge, Tarr, Taylor, Tomkins, Townsend, Upham, Wallace, Wendover, Westerlo, Whiteside, Whitman, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania.*

MONDAY, April 20.

Six o'clock, P. M.

A message from the Senate informed the House that the Senate have passed a resolution

* This seems to have been the end of the bill—the House refusing, at the end of the session, to take up the Senate amendments for consideration.

for the appointment of a joint committee to wait on the President of the United States, and inform him of the approaching recess of Congress; and have appointed a committee on their part.

The House took up the said resolution, and being read, it was concurred in by the House; and Mr. HARRISON and Mr. PITKIN were appointed a committee, conformably thereto, on the part of this House.

The said committee having reported that the President had no further communication to make to Congress, the SPEAKER adjourned the House until the third Monday in November next, the day fixed by law for the next meeting of the Congress of the United States.

FIFTEENTH CONGRESS.—SECOND SESSION.

BEGUN AT THE CITY OF WASHINGTON, NOVEMBER 16, 1818.

PROCEEDINGS IN THE SENATE.

MONDAY, November 16, 1818.

The second session of the Fifteenth Congress commenced this day at the city of Washington, conformably to the act passed the 18th of April, 1818, entitled "An act fixing the time for the next meeting of Congress;" and the Senate assembled.

PRESENT:

DAVID L. MORRILL, from the State of New Hampshire.

PRENTISS MELLEN, from Massachusetts.

JAMES BURRILL, junior, from Rhode Island and Providence Plantations.

ISAAC TICHENOR and WILLIAM A. PALMER, from Vermont.

DAVID DAGGETT, from Connecticut.

RUFUS KING and NATHAN SANFORD, from New York.

MAHLON DICKERSON and JAMES J. WILSON, from New Jersey.

ABNER LACOCK and JONATHAN ROBERTS, from Pennsylvania.

ROBERT H. GOLDSBOROUGH, from Maryland.

JAMES BARBOUR and JOHN W. EPPES, from Virginia.

NATHANIEL MACON, from North Carolina.

JOHN GAILLARD and WILLIAM, SMITH, from South Carolina.

JOHN WILLIAMS and JOHN HENRY EATON, from Tennessee.

BENJAMIN RUGGLES, from Ohio.

ELEGIUS FROMENTIN and HENRY JOHNSON, from Louisiana.

JAMES NOBLE and WALLER TAYLOR, from Indiana.

WALTER LEAKE and THOMAS H. WILLIAMS, from Mississippi.

JOHN GAILLARD, President *pro tempore*, resumed the Chair.

PRENTISS MELLEN, appointed a Senator by the Legislature of the State of Massachusetts, to supply the vacancy occasioned by the resignation of Eli P. Ashmun; WILLIAM A. PALMER, appointed a Senator by the Legislature of the State of Vermont, to supply the vacancy occasioned by the resignation of James Fisk; and JOHN HENRY EATON, appointed a Senator by the Executive of the State of Tennessee, to supply the vacancy occasioned by the resignation of George W. Campbell, respectively produced their credentials, were qualified, and took their seats in the Senate.

A quorum being present, a message was sent to the House of Representatives, notifying that body of the fact.

A committee was appointed, jointly with a committee to be appointed by the other House, for the purpose of waiting on the President of the United States, to inform him that the two Houses were organized, &c. Messrs. MACON and DAGGETT were appointed of the committee on the part of the Senate.

TUESDAY, November 17.

JEREMIAH MORROW, from the State of Ohio; and ALEXANDER C. HANSON, from the State of Maryland, attended this day.

President's Message.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Fellow-citizens of the Senate and of the House of Representatives:

The auspicious circumstances under which you will commence the duties of the present session will lighten the burdens inseparable from the high trust committed to you. The fruits of the earth have been unusually abundant; commerce has flourished; the revenue has exceeded the most favorable anticipation, and peace and amity are preserved with foreign nations on conditions just and honorable to our country. For these inestimable blessings we cannot but be grateful to that Providence which watches over the destiny of nations.

As the term limited for the operation of the commercial convention with Great Britain will expire early in the month of July next, and it was deemed

important that there should be no interval, during which that portion of our commerce, which was provided for by that convention, should not be regulated, either by arrangements between the two Governments, or by the authority of Congress, the Minister of the United States at London was instructed, early in the last Summer, to invite the attention of the British Government to the subject, with a view to that object. He was instructed to propose, also, that the negotiation which it was wished to open, might extend to the general commerce of the two countries, and to every other interest and unsettled difference between them; particularly those relating to impressment, fisheries, and boundaries, in the hope that an arrangement might be made, on principles of reciprocal advantage, which might comprehend and provide, in a satisfactory manner, for all these high concerns. I have the satisfaction to state, that the proposal was received by the British Government in the spirit which prompted it, and that a negotiation has been opened at London embracing all these objects. On full consideration of the great extent and magnitude of the trust, it was thought proper to commit it to not less than two of our distinguished citizens, and, in consequence, the Envoy Extraordinary and Minister Plenipotentiary of the United States at Paris has been associated with our Envoy Extraordinary and Minister Plenipotentiary at London; to both of whom corresponding instructions have been given; and they are now engaged in the discharge of its duties. It is proper to add, that, to prevent any inconvenience resulting from the delay incident to a negotiation on so many important subjects, it was agreed, before entering on it, that the existing convention should be continued for a term not less than eight years.

Our relations with Spain remain nearly in the state in which they were at the close of the last session. The convention of 1802, providing for the adjustment of a certain portion of the claims of our citizens for injuries sustained by spoliation, and so long suspended by the Spanish Government, has at length been ratified by it; but no arrangement has yet been made for the payment of another portion of like claims, not less extensive or well founded, or for other classes of claims, or for the settlement of boundaries. These subjects have again been brought under consideration in both countries, but no agreement has been entered into respecting them. In the mean time events have occurred, which clearly prove the ill effect of the policy which that Government has so long pursued, on the friendly relations of the two countries, which, it is presumed, it is at least of as much importance to Spain, as to the United States, to maintain. A state of things has existed in the Floridas, the tendency of which has been obvious to all who have paid the slightest attention to the progress of affairs in that quarter. Throughout the whole of those provinces to which the Spanish title extends, the Government of Spain has scarcely been felt. Its authority has been confined almost exclusively to the walls of Pensacola and St. Augustine, within which only small garrisons have been maintained. Adventurers from every country, fugitives from justice, and absconding slaves, have found an asylum there. Several tribes of Indians, strong in the number of their warriors, remarkable for their ferocity, and whose settlements extend to our limits, inhabit those provinces. These different hordes of people, connected together, disregarding, on the one side, the authority of Spain, and protected, on the other, by an imaginary line, which separates Florida from the United States, have violated our laws prohibiting the introduction of slaves, have practised various frauds on our revenue, and committed every kind of outrage on our peaceable citizens, which their proximity to us enabled them to perpetrate. The invasion of Amelia Island, last year, by a small band of adventurers, not exceeding one hundred and fifty in number, who wrested it from the inconsiderable Spanish force stationed there and held it several months, during which, a single effort only was made to recover it, which failed, clearly proves how completely extinct the Spanish authority had become, as the conduct of those adventurers, while in possession of the island, as distinctly shows the pernicious purposes for which their combination had been formed.

This country had, in fact, become the theatre of every species of lawless adventure. With little population of its own, the Spanish authority almost extinct, and the colonial governments in a state of revolution, having no pretension to it, and sufficiently employed in their own concerns, it was in a great measure derelict, and the object of cupidity to every adventurer. A system of buccaneering was rapidly organizing over it, which menaced, in its consequences, the lawful commerce of every nation, and particularly of the United States; while it presented a temptation to every people, on whose seduction its success principally depended. In regard to the United States, the pernicious effect of this unlawful combination was not confined to the ocean. The Indian tribes have constituted the effective force in Florida. With these tribes these adventurers had formed at an early period, a connection, with a view to avail themselves of that force, to promote their own projects of accumulation and aggrandizement. It is to the interference of some of these adventurers, in misrepresenting the claims and titles of the Indians to land, and in practising on their savage propensities, that the Seminole war is principally to be traced. Men who thus connect themselves with savage communities, and stimulate them to war, which is always attended, on their part, with acts of barbarity the most shocking, deserve to be viewed in a worse light than the savages. They would certainly have no claim to an immunity from the punishment which, according to the rules of warfare practised by the savages, might justly be inflicted on the savages themselves.

If the embarrassments of Spain prevented her from making an indemnity to our citizens, for so long a time, from her treasury, for their losses by spoliation and otherwise, it was always in her power to have provided it, by the cession of this territory. Of this her Government has been repeatedly apprised, and the cession was the more to have been anticipated, as Spain must have known that, in ceding it, she would, in effect, cede what had become of little value to her, and would likewise relieve herself from the important obligation secured by the treaty of 1795, and all other compromitments respecting it. If the United States, from consideration of these embarrassments, declined pressing their claims in a spirit of hostility, the motive ought, at least, to have been duly appreciated by the Government of Spain. It is well known to her Government that other powers have made to the United States an indemnity for like losses sustained by their citizens at the same epoch.

There is, nevertheless, a limit, beyond which this spirit of amity and forbearance can in no instance be

justified. If it was proper to rely on amicable negotiation for an indemnity of losses, it would not have been so to have permitted the inability of Spain to fulfil her engagements, and to sustain her authority in the Floridas, to be perverted, by foreign adventurers and savages, to purposes so destructive to the lives of our fellow-citizens, and the highest interests of the United States. The right of self-defence never ceases. It is among the most sacred, and alike necessary to nations and individuals. And, whether the attack be made by Spain herself, or by those who abuse her power, its obligation is not the less strong. The invaders of Amelia Island had assumed a popular and respected title, under which they might approach and wound us. As their object was distinctly seen, and the duty imposed on the Executive, by an existing law, was profoundly felt, that mask was not permitted to protect them. It was thought incumbent on the United States to suppress the establishment, and it was accordingly done. The combination in Florida, for the unlawful purposes stated, the acts perpetrated by that combination, and, above all, the incitement of the Indians, to massacre our fellow-citizens, of every age, and of both sexes, merited a like treatment, and received it. In pursuing these savages to an imaginary line, in the woods, it would have been the height of folly to have suffered that line to protect them. Had that been done, the war could never cease. Even if the territory had been, exclusively, that of Spain, and her power complete over it, we had a right, by the law of nations, to follow the enemy on it, and to subdue him there. But the territory belonged, in a certain sense, at least, to the savage enemy who inhabited it; the power of Spain had ceased to exist over it, and protection was sought, under her title, by those who had committed on our citizens hostilities which she was bound by treaty to have prevented, but had not the power to prevent. To have stopped at that line would have given new encouragement to these savages, and new vigor to the whole combination existing there, in the prosecution of all its pernicious purposes.

In suppressing the establishment at Amelia Island, no unfriendliness was manifested towards Spain, because the post was taken from a force which had wrested it from her. The measure, it is true, was not adopted in concert with the Spanish Government, or those in authority under it; because, in transactions connected with the war in which Spain and the colonies are engaged, it was thought proper, in doing justice to the United States, to maintain a strict impartiality towards both the belligerent parties, without consulting or acting in concert with either. It gives me pleasure to state, that the Governments of Buenos Ayres and Venezuela, whose names were assumed, have explicitly disclaimed all participation in those measures, and even the knowledge of them, until communicated by this Government, and have also expressed their satisfaction that a course of proceedings had been suppressed, which, if justly imputable to them, would dishonor their cause.

In authorizing Major General Jackson to enter Florida, in pursuit of the Seminoles, care was taken not to encroach on the rights of Spain. I regret to have to add, that, in executing this order, facts were disclosed respecting the conduct of the officers of Spain, in authority there, in encouraging the war, furnishing munitions of war, and other supplies, to carry it on, and in other acts, not less marked, which evinced their participation in the hostile purposes of that combination, and justified the confidence with which it inspired the savages, that, by those officers they would be protected. A conduct so incompatible with the friendly relations existing between the two countries, particularly with the positive obligation of the 5th article of the treaty of 1795, by which Spain was bound to restrain, even by force, those savages, from acts of hostility against the United States, could not fail to excite surprise. The Commanding General was convinced that he should fail in his object; that he should in effect accomplish nothing, if he did not deprive those savages of the resource on which they had calculated, and of the protection on which they had relied in making the war. As all the documents relating to this occurrence will be laid before Congress, it is not necessary to enter into further detail respecting it.

Although the reasons which induced Major General Jackson to take these posts were duly appreciated, there was, nevertheless, no hesitation in deciding on the course which it became the Government to pursue. As there was reason to believe that the commanders of these posts had violated their instructions, there was no disposition to impute to their Government a conduct so unprovoked and hostile. An order was in consequence issued to the General in command there to deliver the posts—Pensacola, unconditionally to any person duly authorized to receive it; and St. Marks, which is in the heart of the Indian country, on the arrival of a competent force, to defend it against those savages and their associates.

In entering Florida to suppress this combination, no idea was entertained of hostility to Spain, and, however justifiable the Commanding General was, in consequence of the misconduct of the Spanish officers, in entering St. Marks and Pensacola, to terminate it, by proving to the savages and their associates that they should not be protected even there; yet the amicable relations existing between the United States and Spain could not be altered by that act alone. By ordering the restitution of the posts, those relations were preserved. To a change of them the power of the Executive is deemed incompetent. It is vested in Congress only.

By this measure, so promptly taken, due respect was shown to the Government of Spain. The misconduct of her officers has not been imputed to her. She was enabled to review with candor her relations with the United States, and her own situation, particularly in respect to the territory in question, with the dangers inseparable from it; and, regarding the losses we have sustained, for which indemnity has been so long withheld, and the injuries we have suffered through that territory, and her means of redress, she was likewise enabled to take, with honor, the course best calculated to do justice to the United States, and to promote her own welfare.

Copies of the instructions to the Commanding General; of his correspondence with the Secretary of War, explaining his motives, and justifying his conduct, with a copy of the proceedings of the courts-martial, in the trial of Arbuthnot and Ambrister; and of the correspondence between the Secretary of State and the Minister Plenipotentiary of Spain near this Government: and of the Minister Plenipotentiary of the United States, at Madrid, with the Government of Spain, will be laid before Congress.

The civil war, which has so long prevailed between Spain and the provinces in South America, still continues without any prospect of its speedy termination.

The information respecting the condition of those countries, which has been collected by the Commissioners, recently returned from thence, will be laid before Congress, in copies of their reports, with such other information as has been received from other agents of the United States.

It appears, from these communications, that the Government of Buenos Ayres declared itself independent in July, 1816, having previously exercised the power of an independent Government, though in the name of the King of Spain, from the year 1810: that the Banda Oriental, Entre Rios, and Paraguay, with the city of Santa Fe, all of which are also independent, are unconnected with the present Government of Buenos Ayres: that Chili has declared itself independent, and is closely connected with Buenos Ayres; that Venezuela has also declared itself independent, and now maintains the conflict with various success; and that the remaining parts of South America, except Montevideo, and such other portions of the eastern bank of the La Plata as are held by Portugal, are still in the possession of Spain, or, in a certain degree, under her influence.

By a circular note addressed by the Ministers of Spain to the allied powers with whom they are respectively accredited, it appears that the allies have undertaken to mediate between Spain and the South American provinces, and that the manner and extent of their interposition would be settled by a Congress, which was to have met at Aix-la-Chapelle in September last. From the general policy and course of proceeding observed by the allied powers in regard to this contest, it is inferred that they will confine their interposition to the expression of their sentiments; abstaining from the application of force. I state this impression, that force will not be applied, with the greater satisfaction, because it is a course more consistent with justice, and likewise authorizes a hope that the calamities of the war will be confined to the parties only, and will be of shorter duration.

From the view taken of this subject, founded on all the information that we have been able to obtain, there is good cause to be satisfied with the course heretofore pursued by the United States, in regard to this contest, and to conclude, that it is proper to adhere to it, especially in the present state of affairs.

I have great satisfaction in stating, that our relations with France, Russia, and other powers, continue on the most friendly basis.

In our domestic concerns we have ample cause of satisfaction. The receipts into the Treasury, during the three first quarters of the year, have exceeded seventeen millions of dollars.

After satisfying all the demands which have been made under existing appropriations, including the final extinction of the old six per cent. stock, and the redemption of a moiety of the Louisiana debt, it is estimated that there will remain in the Treasury, on the first day of January next, more than two millions of dollars.

It is ascertained that the gross revenue which has accrued from the customs during the same period amounts to twenty-one millions of dollars, and that the revenue of the whole year may be estimated at not less than twenty-six millions. The sale of the public lands during the year has also greatly exceeded, both in quantity and price, that of any former year; and there is just reason to expect a progressive improvement in that source of revenue.

It is gratifying to know, that, although the annual expenditure has been increased by the act of the last session of Congress, providing for Revolutionary pensions, to an amount about equal to the proceeds of the internal duties, which were then repealed, the revenue for the ensuing year will be proportionally augmented, and that, while the public expenditure will probably remain stationary, each successive year will add to the national resources, by the ordinary increase of our population, and by the gradual development of our latent sources of national prosperity.

The strict execution of the revenue laws, resulting principally from the salutary provisions of the act of the 20th of April last, amending the several collection laws, has, it is presumed, secured to domestic manufactures all the relief that can be derived from the duties which have been imposed upon foreign merchandise, for their protection. Under the influence of this relief, several branches of this important national interest have assumed greater activity, and, although it is hoped that others will gradually revive, and ultimately triumph over every obstacle, yet the expediency of granting further protection is submitted to your consideration.

The measures of defence, authorized by existing laws, have been pursued with the zeal and activity due to so important an object, and with all the despatch practicable in so extensive and great an undertaking. The survey of our maritime and inland frontiers has been continued; and, at the points where it was decided to erect fortifications, the work has been commenced, and, in some instances, considerable progress has been made. In compliance with resolutions of the last session, the Board of Commissioners were directed to examine in a particular manner the parts of the coast therein designated, and to report their opinion of the most suitable sites for two naval depots. This work is in a train of execution. The opinion of the Board on this subject, with a plan of all the works necessary to a general system of defence, so far as it has been formed, will be laid before Congress, in a report from the proper department, as soon as it can be prepared.

In conformity with the appropriations of the last session, treaties have been formed with the Quapaw tribe of Indians, inhabiting the country on the Arkansas, and with the Great and Little Osages north of the White River; with the tribes in the State of Indiana; with the several tribes within the State of Ohio, and the Michigan Territory; and with the Chickasaws; by which very extensive cessions of territory have been made to the United States. Negotiations are now depending with the tribes in the Illinois Territory, and with the Choctaws, by which it is expected that other extensive cessions will be made. I take great interest in stating that the cessions already made, which are considered so important to the United States, have been obtained on conditions very satisfactory to the Indians.

With a view to the security of our inland frontiers, it has been thought expedient to establish strong posts at the mouth of Yellow Stone River, and at the Mandan village, on the Missouri: and at the mouth of St. Peters, on the Mississippi, at no great distance from our northern boundaries. It can hardly be presumed, while such posts are maintained in the rear of the Indian tribes, that they will venture to attack our peaceable inhabitants. A strong hope is entertained that this measure will likewise be productive of much good to the tribes themselves; especially in promoting the great object of their civilization. Experience

has clearly demonstrated, that independent savage communities cannot long exist within the limits of a civilized population. The progress of the latter has, almost invariably, terminated in the extinction of the former, especially of the tribes belonging to our portion of this hemisphere, among whom, loftiness of sentiment, and gallantry in action, have been conspicuous. To civilize them, and even to prevent their extinction, it seems to be indispensable that their independence, as communities, should cease, and that the control of the United States over them should be complete and undisputed. The hunter state will then be more easily abandoned, and recourse will be had to the acquisition and culture of land, and to other pursuits tending to dissolve the ties which connect them together as a savage community, and to give a new character to every individual. I present this subject to the consideration of Congress, on the presumption that it may be found expedient and practicable to adopt some benevolent provisions, having these objects in view, relative to the tribes within our settlements.

It has been necessary, during the present year, to maintain a strong naval force in the Mediterranean, and in the Gulf of Mexico, and to send some public ships along the Southern coast, and to the Pacific Ocean. By these means, amicable relations with the Barbary Powers have been preserved, our commerce has been protected, and our rights respected. The augmentation of our Navy is advancing, with a steady progress, towards the limit contemplated by law.

I communicate, with great satisfaction, the accession of another State, Illinois, to our Union; because I perceive, from the proof afforded by the additions already made, the regular progress and sure consummation of a policy of which history affords no example, and of which the good effect cannot be too highly estimated. By extending our Government, on the principles of our constitution, over the vast territory within our limits, on the lakes and the Mississippi, and its numerous streams, new life and vigor are infused into every part of our system. By increasing the number of the States, the confidence of the State governments in their own security is increased, and their jealousy of the National Government proportionally diminished. The impracticability of one consolidated Government for this great and growing nation will be more apparent, and will be universally admitted. Incapable of exercising local authority, except for general purposes, the General Government will no longer be dreaded. In those cases of a local nature, and for all the great purposes for which it was instituted, its authority will be cherished. Each Government will acquire new force and a greater freedom of action, within its proper sphere. Other inestimable advantages will follow: our produce will be augmented to an incalculable amount, in articles of the greatest value for domestic use and foreign commerce. Our navigation will, in like degree, be increased; and, as the shipping of the Atlantic States will be employed in the transportation of the vast produce of the Western country, even those parts of the United States which are most remote from each other, will be further bound together by the strongest ties which mutual interest can create.

The situation of this District, it is thought, requires the attention of Congress. By the constitution, the power of legislation is exclusively vested in the Congress of the United States. In the exercise of this power, in which the people have no participation, Congress legislate in all cases, directly on the local concerns of the District. As this is a departure, for a special purpose, from the general principles of our system, it may merit consideration, whether an arrangement better adapted to the principles of our Government, and to the particular interests of the people, may not be devised, which will neither infringe the constitution, nor affect the object which the provision in question was intended to secure. The growing population, already considerable, and the increasing business of the District, which it is believed already interferes with the deliberations of Congress on great national concerns, furnish additional motives for recommending this subject to your consideration.

When we view the great blessings with which our country has been favored, those which we now enjoy, and the means which we possess of handing them down, unimpaired, to our latest posterity, our attention is irresistibly drawn to the source from whence they flow. Let us then unite in offering our most grateful acknowledgments for these blessings to the Divine Author of all Good.

JAMES MONROE.

NOVEMBER 16, 1818.

The Message was read, and two thousand copies thereof ordered to be printed for the use of the Senate.

WEDNESDAY, November 18.

HARRISON GRAY OTIS, from the State of Massachusetts, attended this day.

THURSDAY, November 19.

JOHN J. CRITTENDEN, from the State of Kentucky, attended this day.

FRIDAY, November 20.

CLEMENT STORER, from the State of New Hampshire, attended this day.

MONDAY, November 23.

NICHOLAS VAN DYKE, from the State of Delaware, attended this day; JOHN FORSYTH, appointed a Senator by the Legislature of the State of Georgia, to supply the vacancy occasioned by the resignation of George M. Troup, produced his credentials, was qualified, and took his seat in the Senate.

TUESDAY, November 24

Mr. FROMENTIN submitted the following motion for consideration:

Resolved, That the President of the United States be requested to cause to be laid before the Senate such information as he may possess tonching the execution of so much of the first article of the late Treaty of Peace and Amity between His Britannic Majesty and the United States of America as relates to the restitution of slaves, and which has not heretofore been communicated.

WEDNESDAY, November 25.

OUTERBRIDGE HORSEY, from the State of Delaware, attended this day.

Agreeably to notice given, Mr. GOLDSBOROUGH asked and obtained leave to introduce a resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie; and the resolution was read, and passed to the second reading.

MONDAY, November 30.

ISHAM TALBOT, from the State of Kentucky, attended this day.

TUESDAY, December 1.

Mr. FORSYTH submitted the following motion for consideration:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of prohibiting the exportation of the gold, silver, and copper coins of the United States.

WEDNESDAY, December 2.

MONTFORD STOKES, from the State of North Carolina, attended this day.

THURSDAY, December 3.

Deported Slaves.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with the resolution of the Senate, of the 25th of last month, requesting to be furnished with such information as may be possessed by the Executive, touching the execution of so much of the first article of the late Treaty of Peace and Amity between His Britannic Majesty and the United States, as relates to the restitution of slaves, and which has not heretofore been communicated, I lay before the Senate a report made by the Secretary of State, on the 1st instant, in relation to that subject.

JAMES MONROE.

DECEMBER 2, 1818.

DEPARTMENT OF STATE, *Dec.* 1, 1818.

The Secretary of State, to whom has been referred the resolution of the Senate, of the 13th ultimo, requesting information not heretofore communicated, relating to restitution of slaves, conformably to the first article of the late Treaty of Peace between the United States and Great Britain, has the honor of reporting to the President of the United States, that the difference of construction given by the two Governments to that part of the first article of the Treaty, and the claim of the citizens of the United States to indemnity for slaves carried away contrary to its stipulations, form one of the subjects of negotiation now pending in England; which negotiation having commenced towards the close of the month of August, no report of its progress has yet been received at this Department, from the Plenipotentiaries, to whom, on the part of the United States, it has been committed.

JOHN QUINCY ADAMS.

The Message and documents were read, and ordered to lie on the table.

FRIDAY, December 4.

WILLIAM HUNTER, from the State of Rhode Island and Providence Plantations, attended this day.

NINIAN EDWARDS and JESSE B. THOMAS, respectively appointed Senators by the Legislature of the State of Illinois, produced their credentials, were qualified, and took their seats in the Senate.

TUESDAY, December 8.

Memorial of Matthew Lyon.

The Senate resumed the consideration of the report of the Committee on the Judiciary, to whom was referred the memorial of Matthew Lyon, of Eddyville, in the State of Kentucky, praying reimbursement of a certain fine, imposed in the year 1798, at the suit of the United States, together with the costs and other losses attending the same, to wit: "That the prayer of the petition ought not to be granted." Whereupon,

Mr. CRITTENDEN submitted the following motion as an amendment:

Resolved, That all persons, who were prosecuted and fined under and by virtue of the second section of the act of Congress, commonly called the sedition law, approved the 14th day of July, 1798, and entitled "An act in addition to the act entitled 'An act for the punishment of certain crimes against the United States,'" ought to be reimbursed and indemnified out of the public Treasury, to the amount of the fines imposed upon, and paid by them, respectively.

Mr. CRITTENDEN said he considered the sedition act as having been unconstitutional, not only from a defect of power in Congress to pass such a law, but because its passage was expressly forbidden by the constitution. The sense of the nation had unquestionably pronounced it unconstitutional, and that opinion being generally entertained, it ought to be solemnly pronounced by the Legislature, that history and the records of the country may not hand it down to posterity as a precedent for acts of similar usurpation. If a revision of the proceedings in that case was important in a public point of view, it was certainly so as it related to the individuals who became the subjects of prosecution under that act. To each of them, and to every citizen of the United States, the Constitution of the United States had guaranteed certain rights, which had been violated by that law. This guarantee entitled them to indemnity in cases wherein those rights were violated; of this indemnity, the decision of courts ought not to deprive them. If they did, he said, there is no redeeming spirit in the constitution. Legal sanctions cannot vitiate constitutional provisions. The Judiciary is a valuable part of Government, and ought to be highly respected; but is not infallible. The constitution is our guide—our supreme law. Blind homage can never be rendered by freemen to any power. In all cases of alleged violations

of the constitution, it was for Congress to make a just discrimination. In doubtful cases, he said, he would not interfere; but, when the constitution forbade a law, he would not hesitate to interpose for the relief of those who suffered by its inflictions. The case now before the Senate, he considered a fair case for the interposition of Congress. It had a peculiar character. The individual had a right to remuneration; this right ought not to be sacrificed to contingencies, or to speculative opinions. We may not do wrong that right may come of it. Justice to the individuals, to the constitution, to the country, all required this course. Let us add, said Mr. C., new defences and guards to the constitution in this assailable point. Let us secure it, as far as in our power, from future infraction on the ground of precedent.

Mr. BURRILL said he hoped the amendment would not prevail. If it was negatived, the gentleman would yet have it in his power to try the general question by introducing a bill embracing his proposition. But, Mr. B. said, not a fact alleged in the petition now before the Senate was supported by any proof, though the facts were extraordinary in their nature, and not to be believed without proof. The petitioner had asked relief from Congress, on the ground of not having had a fair trial. Ought not this to be proved, instead of being merely asserted? He had called Judge Patterson a second Jeffries, himself an Algernon Sydney; but this was not a ground on which the Senate could found a legislative act. The question regarding the constitutionality of the act of Congress, which had been agitated, Mr. B. said he would not argue; not that he had any doubts on the subject, but because it was unnecessary now to discuss it. The question really before the Senate was one which could be discussed without reference to the character of Judge Patterson, and without reflecting on the administration of justice in the courts of our country. The facts alleged were not proved, and Mr. B. believed they were not susceptible of proof.

Mr. BARBOUR said he had not intended to speak on this question, unless impelled by an imperious sense of duty. He was happy, he said, that the question presented to the Senate, instead of being decided on the merit or demerit of an individual, was to be decided on the broad ground of principle. Was the course proposed in the amendment, he asked, an unusual course? Was it not a daily practice to include all who were in the same predicament in the same remedy? An individual, Mr. B. said, was responsible for any charges he made; and they are not to be received as facts until satisfactorily proved. Let not, therefore, the great constitutional question now presented rest on the merit of the claim of a single individual, or be encumbered by questions of fact peculiar to an isolated case. The true question now to be decided, was, did the Government, by the sedition act of 1798, from improper motives of party feelings, violate the constitution and oppress individuals? If they did, ought not the new trustees to whom the people had confided their authority, to remedy the evil as far as in their power? The public sentiment, he said, called upon Congress to repair the wrongs which had been inflicted, and to administer, like the good Samaritan, the healing balm to every wound. This, he thought, was a propitious moment to retrace the former steps, in deference to the opinion of the people, and erect a barrier against the recurrence of similar aggressions of power on inherent and constitutional right. This, he said, was not the tribunal to take cognizance of judicial delinquency: that was the province of the other House. But it was quite within the power of this body, as one branch of the Legislature, to pronounce that those who gave the authority exercised by the judiciary had no right to do so, and that, therefore, the judiciary had proceeded unconstitutionally in executing the law, the constitution being the paramount law. He believed, he said, our courts were the purest in the world; but those who composed them were mere men, and some of them, possibly, bad men. Was there any thing, he asked, in the ermine robe, which conferred on the wearer exemption from human frailties? It was rather calculated to inflate the vanity, and increase the confidence of the judge in his own infallibility. He would not, he said, act indelicately towards the judiciary, or any member of it; but, in regard to the violation of the constitution, in the passage and execution of the sedition law, a tribunal from which there was no appeal, had decided on it. There was among the people, at this day, scarcely a dissentient voice on that subject. Would the decision of four or five individuals counterbalance this unanimous opinion? The sedition act, Mr. B. proceeded to say, was one of the most conspicuous among the acts of misrule, in consequence of which the party who then held the reins of Government was precipitated from power. The law, he said, was unconstitutional, and Congress ought to say so, and to repair the ravages made under color of its authority.

Mr. OTIS said, this debate was wholly unexpected by him, until the gentleman from Kentucky gave him an intimation a day or two ago, that he intended to oppose the report of the committee. He did not then intend to interfere, as he believed the few observations he might make would be wholly unprofitable; and nothing but some allusions which had been made, would induce him to address the Senate. He was the only member of Congress, now in the Senate, who voted for the sedition law; and there were but four or five in the other House, who had aided in passing this law. It might be expected he would let the world see he was not ashamed of his old friends, nor of his old principles. He was not now an advocate for a sedition law. The public opinion, as clearly ascertained, forbade it. He respected this opinion as sincerely as those who much oftener referred to it. It was his inclination, as well

as his duty, to conform to it. But, though he would not repeat the offence, he could not repent it. In supporting that law on its passage, he acted from a sense of duty. Those who acted with him, were governed by motives equally honorable. He admitted the law was inexpedient, but he thought gentlemen mistaken when they pronounced it unconstitutional. This question had been ably discussed, as well by those who were opposed to the law, as by those who advocated it; and he should not now enter deeply into the subject. Every Government had an inherent right to punish offences which endangered its existence; and on this definition he relied for a justification of the law. If the President and Congress were convinced there was a *necessity** for such a law, they had a right to enact it. It was passed in a period of great danger and alarm. It was true, it had been said these were chimerical. He trusted this would not now be said. It was a period of war, and of threatened invasion. Our ministers of peace had been spurned by the French Republic, who had demanded more money. The nation was preparing to resist. At this moment the law was passed. It was a measure of defence—a part of the general system. Of this system WASHINGTON approved, and accepted the command of the army. Mr. O. did not wish to excite unpleasant feelings, and would endeavor to avoid it. There was one argument more he would urge. Had gentlemen lately read the law? If they had, they would remember that its second section only punished the publication of false, scandalous, and malicious matter, and admitted the truth to be given in the defence. He had always been surprised that this section was found fault with, while the first section, defining a conspiracy, and prescribing its punishment, had been passed over without animadversion. The law was doubtless inexpedient, but it was not new in principle. Similar provisions existed in several of the States; and this act was deemed essential for the defence of the constitution and its authorities. It was not intended to affect the poor individuals who became its victims; but it was thought that France, who was everywhere endeavoring to extend her influence by intrigue and corruption, would, by her agents, busy herself in our concerns, and that the provisions of this act were *necessary* to defeat their efforts, and preserve the Government. No matter whether those apprehensions were unfounded or not—they existed. Nor need it be wondered at. We had since seen and heard it asserted, that the finger of Great Britain was discovered in the proceedings of men, whose principles, services, lives, families, and fortunes were certain pledges of their fidelity to their country. But, admitting that gentlemen are correct, and that indelible stigma should be stamped on the law and its authors, can Congress remedy the wrong done? We have no constitutional power to declare any law unconstitutional, in any other mode than by repealing it. If gentlemen thought we had, he would thank them to point out the clause. They could not do it. We have no such power. The Judiciary could do justice in such cases, but the Legislature cannot.

Mr. SMITH said, that, being of the committee who reported against the petition, and of opinion that the prayer of it ought not to be granted, he deemed it a duty to offer his reasons for differing from the gentlemen from Kentucky and Virginia. He was in favor of the report, and against the amendment. His political principles were and always had been republican or (as they had been formerly called, by way of reproach) democratic. His principles had never changed, nor was it probable they ever would. He was sorry gentlemen had gone so deep into the question, as it might awaken feelings which had better be permitted to slumber. When the sedition law passed, public opinion revolted against its principles and provisions, not because it was unconstitutional, but because of the temper manifested in enacting and executing it, which induced a belief that the object was to crush all opposition to the party in power. That party were continually pouring in addresses upon the President, applauding his measures, and denouncing those who differed from them in opinion. The very children presented their adulatory offerings; and it was remarked by some one at the time, that the President had as many addresses in his bureau as James the First had. The Democrats were denounced, and the President called on to remove them all from office; and on every removal of one of them, addresses were sent to the President approbating his conduct. This created the alarm. To this violence the sedition law owed the opposition it experienced, and not to the belief that it was unconstitutional. The times were not now what they were in 1798. The Government now admitted its opponents to a participation in its offices, and its friends did not clamor for their dismissal.

But he would drop this subject, and return to the question. The gentlemen from Massachusetts and Rhode Island justly opposed the assumption by Congress to decide on the constitutionality of a law. Our constitution had very properly separated the powers of Government—the Executive, Legislative, and Judicial. They should be kept separate. The Judiciary was to construe laws. Congress could not reverse their decisions, nor repair their injuries. When they

* This assumed source of power—*necessity*—constituted the main dividing line between the Federalists and Republicans in the beginning of the Government, and was the argument on which their support or opposition to measures enlarging the powers of Congress so often turned—the Federal party for it, the Republicans against it. But at a later period—the time of the establishment of the second National Bank, and the commencement of federal internal improvement, the Republicans fell into the same doctrine—and with the same fate; experience showing that each did, under the plea of *necessary*, what was not so.

had passed a law, and the President signed it, they could not touch it, unless to repeal or amend it. The opinions of legal men ought to have great weight. The Judiciary was composed of such. They were selected for their legal acquirements. They deliberated well before they decided. They would not have stooped to party purposes, but they gave the law its full operation. This could give Congress no right to interfere. Are you to presume the judges were perjured and prostituted? We ought not to do so without proof; and we have here only the suggestions and recollections of eighteen or twenty years ago. And he must here say, the petitioner had here given evidence that he can now write bitterly, if he did not then. He appealed to gentlemen who had professionally studied law, whether the sedition act was unconstitutional. He was not satisfied it was so, but inclined to think otherwise. In this case at least, the applicant ought not to be believed, as there was no evidence of the truth of his allegations. In the infancy of our Government, the common law of England was adopted. This forbade the proof of any fact alleged, and was much more severe than the sedition law. Under the common law, instead of admitting the truth as a justification, "The greater the truth, the greater the libel." The jury could only decide on the fact of publication, and the court could fine and imprison at their discretion. There was no offence punishable by the sedition act but was indictable at common law, save perhaps in a single case; and while under the former the truth might be given in evidence, and the jury had cognizance both of law and fact, under the latter the truth but aggravated the offence, and the offender was at the mercy of the court. The sedition law was therefore an amelioration of the common law. But the great evil was in the spirit which prevailed in its enaction and administration.

Mr. MACON had hoped the resolution would be discussed on its merits, as it did not even mention Matthew Lyon's name. The true question was, will you review the proceedings under the sedition law, now, while party spirit is hushed, and all is calm? This calm he did not wish to disturb. But if you agree to the report, and reject the petition, how will you bring the question before you? He was told the precedent would be dangerous. He would meet this at once. If any party in power thought it their duty to follow it, let them do so. He did not admire precedent more than the gentleman from South Carolina, but, when wrong was done, it ought to be righted. The adoption of the constitution, and the state of things abroad and at home, which ensued, had excited heats in the country; and he supposed both parties were sometimes wrong. The country is now peaceful, and we can act free from prejudice or party. He should not attempt to discuss the constitutionality of the sedition law. He had often been heard on this subject, and he supposed every man had made up his mind on the question. If the Senate was satisfied the law was unconstitutional, they ought to adopt the resolution; if they had doubts, they ought to reject it. Some facts were stated in the petition not known to him; but he believed Matthew Lyon had remunerated all the members who advanced money to relieve him from his fine. According to some gentleman we were to regard the judiciary more than the law, and both more than the constitution. It was a misfortune the judges were not equal in infallibility to the God who made them. The truth was, if the judge was a party man out of power, he would be a party man in. The office would not change human nature. He had no doubt that the sedition law, and the proceedings under it, had more effect in revolutionizing the Government than all its other acts. He well remembered the language of the times—pay your taxes, but don't speak against Government. The gentleman from Massachusetts admits the inexpediency of the law, but not its unconstitutionality. This was of itself a great concession. Would he, or the gentleman from South Carolina, put his finger on the clause of the constitution which authorized that law? He would not impute evil motives—he had nothing to do with them, but with acts. He would have preferred a silent vote; but, being referred to in the petition, he could not be silent. Money is paid back daily from the Treasury to individuals, without its being called revising the decision of the judges. He did not agree with the gentleman from Massachusetts about the powers of the Government. That gentleman thought it might do any act necessary to its preservation. He, Mr. M., believed it could not go beyond the constitution. We have in this country two governments. The constitution defines the powers of the General Government, and leaves the State governments untouched. He thought the position clear, that if there was no constitutional power to pass the law, the money was taken wrongfully, and ought to be restored. Mr. MACON was sorry the names of judges had been introduced. We ought to pass lightly over the ashes of the dead. Let them sleep quietly with their fathers—he would not disturb them.

The Senate adjourned, without taking the question.

WEDNESDAY, December 9.

Memorial of Matthew Lyon.

The Senate resumed the consideration of the report of the Judiciary Committee unfavorable to the petition of Matthew Lyon; Mr. CRITTENDEN's motion to reverse the report, and to make general provision for the indemnification of all similar cases occurring under the sedition law, being yet under consideration:

Mr. MORRILL said, the discussion had taken a course which was unexpected; and he felt it a duty to make some remarks, and assign the reasons which would govern his vote. The question turned on the constitutionality of the sedi-

tion law. He was opposed to the resolution, because he believed the law constitutional. The law only punished false, licentious, and malicious writings. The constitution did not mean to prohibit a law to punish these. It was intended to cherish virtue and morality, and to preserve our rights and privileges; and which of these did we esteem higher than reputation? The constitution prohibited any law abridging the freedom of speech or of the press. Now, freedom and liberty are synonymous and convertible terms. The law was not intended to abridge the liberty of the press, but its licentiousness. The second section allowed the truth to be given in evidence. If the publication was licentious, the charge could not be supported, and the offender would be punished. If it contained facts, they could be maintained, and an acquittal would take place. He was opposed to the resolution on another ground—this was not the proper tribunal to decide the question of unconstitutionality. The judiciary was the proper tribunal. If Congress should indemnify in one case, they might in others—and where would we stop? All would be confusion and uncertainty.

Mr. CRITTENDEN felt himself bound to reply to some observations which had been made. The public voice had determined the unconstitutionality of the sedition law: it had removed one party from power, and elevated another. He had expected Congress would confirm the decision of the people. He should be sorry if he were disappointed; but it would be a great consolation that the opinion of the nation was with him. If the law was a violation of the national compact, which guaranteed to every individual freedom to speak and to publish what he chose, could we retain fines incurred under this law? In a moral point of view, the money ought to be refunded; and he knew not on what ground the claim could be resisted. For the judiciary he felt a proper respect; but he would not bow submissively to every thing the judiciary should say. As a man, and as a member of the Senate, he had a right to form opinions for himself. The constitution he regarded as the supreme law, and entitled to our first attention and respect. By this resolution we should cast no stigma on any judge or court: it was not revising any judicial decision; it was no indelicacy to the judiciary. The blame attached to Congress more than to the judiciary. We ourselves have done an injurious act; it is for us to repair the wrong. There was no more indelicacy in the present case, than there would be in moving the repeal of a law. He thought gentlemen quite too sensitive on this subject. He had no wish to cast a stigma on either the judiciary or Congress—no desire to impute impure motives to either; but purity of motive could not make the law constitutional. Victorious parties might pursue their adversaries too far, as well in the Senate as in the field; hence arose the act in question. The stability of the judiciary was not to be affected by this resolution. He judged the law by the constitution. He did not like the judiciary less than others, but he loved the constitution more.

Mr. OTIS said he should not enter into the argument of the question; but would merely suggest a fact which he had before omitted. He believed the people of the United States had never demonstrated their opinion that the sedition law was unconstitutional. After the Virginia Legislature had passed their resolutions, denouncing this law, and circulars enclosing their proceedings were sent to the Legislatures of the several States, those of New England unanimously declined expressing their disapprobation of the law, and so far gave their sanction to it. Virginia again took up the subject, and gave a comprehensive view of all the arguments against the law; and this was carried through the Legislature but by about two to one. He thought at least one-half of the people of the United States might be considered as having expressed their opinion that the law was constitutional; yet, he would not at this time so far outrage public opinion as to vote for a renewal of this law. He hoped it might be done without; but it might have to be recurred to in times of imminent public danger. A crisis might arrive, when it would not be safe to let the press denounce the President of the United States as a usurper and highwayman, and the Congress as swindlers, and participators in his plunder; and to declare that the people had no resource but in a convention of delegates.

The question was taken on Mr. CRITTENDEN's proposition, and decided in the negative—yeas 17, nays, 20, as follows:

YEAS.—Messrs. Barbour, Crittenden, Edwards, Eppes, Forsyth, Lacock, Macon, Morrow, Palmer, Roberts, Ruggles, Sanford, Stokes, Talbot, Thomas, Williams of Mississippi, and Wilson.

NAYS.—Messrs. Burrill, Daggett, Fromentin, Gaillard, Hanson, Hunter, Johnson, King, Leake, Mellen, Morrill, Noble, Otis, Smith, Storer, Taylor, Tichenor, Van Dyke, and Williams of Tennessee.

The report of the committee was then concurred in—ayes 20.

FRIDAY, December 11.

CHARLES TAIT, from the State of Georgia, attended this day.

WEDNESDAY, December 16.

General John Stark.

The Senate proceeded again to the consideration of the bill for the relief of General Stark, an amendment having been heretofore agreed to, on motion of Mr. TICHENOR, to change the commencement of the pension from the 4th of July, 1817, to the 16th of August, (the anniversary of the battle of Bennington, in which General Stark so greatly signalized himself,) and the question was on ordering it to a third reading.

Mr. ROBERTS commenced a brief debate on

the bill, by objecting to its passage, though under the highest sense of General Stark's merits, on the general ground of being adverse to a system of pensions, when not justified by disability incurred in the public service; that, if a pension were granted in this case, the same argument would justify pensions in numerous other cases, and because, in this instance, the relief was not solicited by General Stark himself, but by others for him.

Mr. FROMENTIN replied to Mr. ROBERTS, and advocated the bill with much earnestness, remarking, in substance, that he would act on this single case, without extending his views to other possible cases to which his attention was not called; that the very silence of General Stark was the most eloquent appeal he could possibly make for support, because age and infirmity had rendered him incapable of making his own petition; that, on the score of expense, there was little to apprehend on that account; for, so far from the probability that General Stark would be a burden to the Treasury, there was danger that, ere the present bill could receive the approbation necessary to make it a law, the object of it (now ninety odd years of age) would have descended to the tomb, as was almost the fact in the case of General St. Clair, who did not enjoy his pension more than three months, when he became a tenant of the grave.

Mr. KING rose merely to remark that, if the Senate were composed altogether of men of his age, he believed there would not be a dissenting voice heard against the bill; because they would all have then, as he had, a personal recollection of the singular and extraordinary Revolutionary services of General Stark. Mr. K. mentioned, as particular examples, the unrivalled conduct and services of General Stark at the battle of Bunker Hill; his subsequent success in arresting the triumphant progress of Burgoyne; the feelings of joy and encouragement in the cause, which were diffused throughout all the northern section of the States, by the achievements and success of Stark, and which, if every member were old enough to remember, as he did, there would, he repeated, be not a solitary objection to this bill.

Mr. SMITH followed in opposition to the bill. He argued, in reply to its advocates, that if General Stark was so near his end as was represented, there was the less necessity for this bill, because he could not live to enjoy it, and the doctrine was long since exploded that a man had use for money after his decease—passage-money was no longer deemed necessary. If it was for relief, it was unnecessary; but, if it was intended as a compliment, that was another question. In either view he was opposed to it. Mr. S. denied the power of giving pensions for the purpose of distinction, and he had therefore never given his assent to any pension not previously provided for by law. He did by no means deny the great merits of General Stark; but this being another case in the improper system of pensions, now becoming common, he was opposed to it, and hoped it would not pass.

Mr. MORRILL made a few remarks in reply to some of the observations made by gentlemen on this subject, when before under consideration, and added a few words on the uncommon merits of General Stark—briefly noticing his gallant conduct at Bunker Hill, at Bennington, at Trenton, at Princeton, &c., adducing the voluntary letters of compliment from Mr. Jefferson and Mr. Madison, respectively, on their succeeding to the Presidency, and concluded by saying, that if merit was to be estimated by services rendered to one's country, there was none so deserving as the veteran hero the Senate was now called on to relieve from penury.

The question was then taken on ordering the bill to a third reading, and decided in the affirmative, as follows:

YEAS.—Messrs. Burrill, Crittenden, Dickerson, Eaton, Edwards, Forsyth, Fromentin, Gaillard, Horsey, Hunter, Johnson, King, Leake, Mellen, Morrill, Morrow, Otis, Palmer, Ruggles, Sanford, Stokes, Storer, Talbot, Taylor, Thomas, Tichenor, Williams of Mississippi, Williams of Tennessee, and Wilson —29.

NAYS.—Messrs. Eppes, Lacock, Macon, Noble, Robertson, and Smith—6.

FRIDAY, December 18.

Illegal Transportation of Slaves.

Mr. WILSON, of New Jersey, rose to offer a resolution. He observed that the resolution he was about to submit required a few words of explanation. The traffic in slaves and servants of color had been carried on to considerable extent from the State of New Jersey; and, under color of this traffic, it was believed many free persons, or who were soon to become free, had been consigned to slavery for life. The Legislature of New Jersey, at its late session, had *unanimously* passed a law to prevent this traffic; but it was feared this law could not be carried into complete effect, without the co-operation of the revenue officers of the United States, authorized by an act of Congress. The Legislature had therefore instructed their Senators, and requested their Representatives in Congress, to use their endeavors to procure the passing of an act to prevent the transportation of slaves, or servants of color, from any State to any other part of the United States, in cases where, by the laws of such State, such transportation is prohibited. In conformity with these instructions, as well as agreeably to his own feelings and principles, he therefore begged leave to submit the following resolution:

Resolved, That the committee on the subject of the slave trade be instructed to inquire into the expediency of making provision, by law, "to prevent the transportation of slaves, and servants of color, from any one State to any other part of the United States, in cases where, by the laws of such State, such transportation is prohibited."

General Jackson and the Seminole War.

The Senate resumed the consideration of the motion of the 4th instant, for referring to a select committee the Message from the President, and documents, relative to the Seminole war; and, on motion by Mr. EATON, the same having been amended, was agreed to as follows:

Resolved, That the Message of the President, and documents, relative to the Seminole war, be referred to a select committee, who shall have authority, if necessary, to send for persons and papers: that said committee inquire relative to the advance of the United States troops into West Florida; whether the officers in command at Pensacola and St. Marks were amenable to, and under the control of Spain; and, particularly, what circumstances existed, to authorize or justify the Commanding General in taking possession of those posts.

Messrs. LACOCK, EATON, FORSYTH, KING, and BURRILL, were appointed the committee.

THURSDAY, December 24.

Mr. SANFORD presented the memorial of the New York Society for promoting the manumission of slaves, and for protecting such of them as have been, or may be, liberated; and the memorial was read, and referred to the committee on that subject.

THURSDAY, December 31.

A message from the House of Representatives informed the Senate of the death of the honorable GEORGE MUMFORD, late a member of the House of Representatives from the State of North Carolina, and that his funeral will take place to-morrow morning at 10 o'clock.

On motion by Mr. MACON,

Resolved unanimously, That the Senate will attend the funeral of the honorable George Mumford, late a member of the House of Representatives from the State of North Carolina, to-morrow morning at 10 o'clock; and as a testimony of respect for the memory of the deceased, they will go into mourning, and wear a black crape round the left arm for thirty days.

The Senate adjourned to Monday morning.

WEDNESDAY, January 6, 1819.

DANIEL D. TOMPKINS, Vice President of the United States, and President of the Senate, attended, and took the Chair.

FRIDAY, January 8.

Monument to Washington.

The Senate then resumed the consideration of the bill providing for the erection of a monument over the remains of General GEORGE WASHINGTON, where they now lie.

Mr. BARBOUR moved that the bill be recommitted, with instructions to report a bill appropriating money for the erection of an equestrian statue of General WASHINGTON, in conformity with the resolution of Congress of 1783.

[This resolution was passed on the 7th of August, 1783, and directs substantially that an equestrian statue of bronze be erected at the Seat of Government; that the General be represented in a Roman dress, holding a truncheon in his right hand, his head encircled by a laurel wreath; that the pedestal be of marble, on which to be represented in relief, the following principal events of the war in which General WASHINGTON commanded in person, viz: the evacuation of Boston; the capture of the Hessians at Trenton; the battle of Princeton; the battle of Monmouth, and the surrender of Yorktown. The resolution directed also the inscriptions; that it shall be executed by the best artists, &c.]

The motion produced a short debate, and was finally decided in the affirmative, as follows:

YEAS.—Messrs. Barbour, Burrill, Crittenden, Daggett, Eaton, Edwards, Forsyth, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Macon, Mellen, Morrill, Otis, Palmer, Sanford, Stokes, Storer, Tait, Talbot, Taylor, Thomas, Tichenor, Van Dyke, and Williams of Tennessee—30.

NAYS.—Messrs. Lacock, Morrow, Noble, Roberts, Ruggles, and Smith—6.

MONDAY, January 25.

Exportation of Domestic Coins.

Mr. TALBOT, from the Committee on Finance, to whom was referred a resolution of the Senate to inquire into the expediency of prohibiting by law the exportation of the gold, silver, and copper coins of the United States, made the following report, which was read:

The Committee on Finance, to whom was referred a resolution to inquire into the expediency of prohibiting by law, the exportation of the gold, silver, and copper coins of the United States, report:

That, the measure contemplated in the resolution intimately connecting itself with the fiscal concerns of the nation, the committee, through their chairman, addressed a note to the Secretary of the Treasury, requesting his opinion of the propriety of adopting measures for the attainment of the object in contemplation, from whom they received in reply a communication, which accompanies this report, with the arguments and opinions expressed, in which those of your committee substantially correspond.

Of the inefficiency, if not entire impotence of legislative provisions to prevent the escape of the precious metals beyond the territorial limits of the Government, the history of all countries in which the power of legislation has been thus exercised, bears testimony. And, if all the efforts of arbitrary power in despotic Governments, if regulations dictated by the most cautious and jealous policy, guarded by penalties and punishments the most cruel and sanguinary, and enforced with a rigor which knows no mitigation, have been in vain, what hope can be indulged that a Government like ours—the genius and spirit of which breathes mildness and moderation—a country in

which cruel and unusual punishments are unknown—could find the means of obtaining, by this mild spirit of legislation, this desirable end? Indeed, no error seems more entirely renounced and exploded, if not by the practice of all nations, at least in the disquisitions of political economists, than that which supposed that an accumulation of the precious metals could be produced in the dominions of one sovereign by regulations prohibiting their exportation to those of any other. The evils resulting to the community from a scarcity, or too small a portion of the precious metals, seem to your committee to be too deeply seated to yield to any remedies within the competency of legislation to afford. It is a malady which admits of no cure but that of time, patient industry, and persevering economy. As long as the balance of trade is against us, so long will a constant efflux of the precious metals be required for the discharge of such balance.

From this axiom in commerce, the correctness of which, it is believed, never was questioned, it follows that it remains with the people themselves to adjust this balance, and to produce a preponderance in favor of our own country. Highly favored as they are by the bounty of Providence; blessed with a country of unparalleled fertility; with soil, climate, and situation almost infinitely diversified; with capacities of rivalling every quarter of the globe in the agricultural productions, as well as in the perfection of their manufactures, raw materials for which are so abundantly furnished them within the bosom of their own country; aided by a moderate and wise economy in a limited enjoyment of foreign luxuries—with these advantages, duly appreciated and fully improved, to what elevated condition in their intercourse with foreign nations may they not aspire? To the protection of our domestic manufactures by the imposition of duties on foreign importations, the National Government seemed to have gone as far as sound policy would warrant or permit; the present tariff having been framed with a view as well of raising the requisite supply of revenue for the support of Government, as, by the amount of the duties imposed on foreign articles of manufacture, to enable our own manufacturer of similar articles to meet the importer of such foreign manufacture, in our own market, on terms of fair and equal competition.

Further than this, it would seem to your committee, the Congress of the United States ought not to go. To commercial enterprise, to the sagacity of this class of the community, sharpened by the keen sense of interest, and enlightened by long experience, it should be left to explore the old, or, seeking new channels of commerce, find out the most profitable markets for the productions of our native and domestic industry, and to bring us in exchange such of the productions of foreign climates, and of foreign labor, as our citizens are willing to purchase. In short, it is the opinion of your committee, that commerce is always destined to flourish most where it is permitted to pursue its own paths, marked out by itself, embarrassed as little as possible by legislative regulations or restrictions.

From these considerations your committee are induced to recommend the adoption of the following resolution:

Resolved, That it is not expedient for Congress to adopt any regulations for preventing the exportation of the gold, silver, or copper coins of the United States.

TUESDAY, February 9.

Sales of Public Lands.

Mr. MORROW, from the Committee on Public Lands, who were instructed "to inquire into the expediency of so altering the laws respecting the sale of the public lands, that, from and after the —— day of —— next, credit shall not be given on such sales," made a report, accompanied by a bill, making further provision for the sale of public lands; and the report and bill were read, and the bill passed to the second reading.

The report is as follows:

That a view to the extensive territory placed at the disposal of the Government, the increasing demand for new lands for cultivation, arising from the progressive augmentation of the population in the United States, and the influence which the proposed alteration in the system for the sale of public lands, must produce on the interests of a large portion of the community, give, in the opinion of the committee, more than ordinary importance to the inquiry which they are instructed to make.

From the connection that the terms of credit have with the other provisions and conditions provided for the sale of the public lands, a correspondent alteration in the price and size of the tracts offered for sale, will be necessary, when the credit is discontinued on future sales. That provision, alone, would virtually operate an enhancement of the price, and lessen the facility to men of limited capital, of acquiring new lands for settlement and cultivation.

In this view, the committee have considered the expediency of providing for the discontinuance of credit, a reduction of the price, and a subdivision of tracts in future sales. The provisions for the sale of public lands now in force, with some subsequent alterations, were adopted by the act of the 10th day of May, 1800. By its general regulations, a credit is allowed on three-fourths of the purchase-money for the lands sold. The moneys credited may be retained by incurring the charge of simple interest, for five years, from the time of purchase. It would appear that, at the first sales under this law, the long term of credit allowed had induced excessive purchases. The term of credit on these sales expired in the year 1805; and in 1806, it became necessary for Congress to interpose for relief of the purchasers, to prevent extensive forfeitures for failure in payment; and, since that period, nine several acts have been passed for the relief of the purchasers of public lands; and these acts for mitigating the operation for the general provision of the law have been in force more than one-half of the whole time since the system was first organized. The inducements of a long credit, which encourage purchases beyond the means for making payment, the general disposition in men to anticipate the most favorable results from the products of their labor, and the frequent unfavorable fluctuations in commerce, which cannot be foreseen by the most discerning, are the principal causes of the failures in payment by purchasers of public lands. It must appear from the Treasury statement, at the present session, of the amount of outstanding balances, on account of the sales of public lands, with the embarrassments arising from the deranged state of the currency, that any degree of punctuality in the payment of the debts now due is highly improbable. If the laws were left to operate in the rigid exactions of

the penalties and forfeitures, the most serious injuries (in the present circumstances of the country) must follow to a large class of the community; and the effect of relief, by an extension for the time for payment, while the sales continue to progress, may produce an accumulation of the debt, and increase the difficulty in making the final payments.

The experience for several years of the effects of this system, the frequent recurrence of circumstances which render necessary the interposition of the Legislature to mitigate the general operation of law, and the extensive forfeitures which have been incurred, notwithstanding the aid of frequent remedial laws for the relief of the purchasers, seem to forbid any calculation on a successful operation of the same system in future sales. It cannot be correct policy to persist in the continuance of a system so much affected by circumstances, as that under consideration; which requires the frequent aid of mitigating expedients to preserve its existence, and to prevent its oppressive effects on a considerable portion of the community. It is not believed that any of the acts for the relief of the purchaser of public lands were unnecessary indulgences. The unfavorable state of things, during the restrictions on our commerce, and the late war, rendered such measures necessary; and the present state of the currency presents claims for indulgence still more imperative. Judging from the experience of the past, without any assurance of a more favorable state of things in future, it may be concluded that the system of credit is not well adapted to the circumstances of the country, and will be injurious so long as commerce is liable to fluctuation. The allowance of credit on the sales of the public lands, could not have been adopted for the benefit of capitalists; to them it is unnecessary, and for them it ought not to have been provided. And yet it is believed that it has operated most to the disadvantage of men destitute of capital. An individual who takes the whole term of credit allowed by law, on the three last instalments of purchase money, is charged on the moneys credited more than ten per cent. per annum above the purchaser who makes prompt payment; and, in many instances, if he possess no other resources than those arising from the land itself, he incurs a forfeiture of the money paid, and the land, with its improvements. If the allowance of credit on future sales was abolished, every subsequent purchaser would, without any liability to error, be able to calculate his means for payment; and if his purchase should not be so extensive, he would at once become an independent landholder, secure and quiet in his possession. In future, those fertile sources of discontent and disquietude, which arise from disappointment, and from the exercise of measures necessary to enforce the payments, as also the frequent distress occasioned by the forfeiture of lands on which settlements have been made, would be avoided; and (as will be proposed) were the public lands offered for sale in tracts of eighty acres, at one dollar and fifty cents per acre, then any individual, on the payment of one hundred and twenty dollars, might acquire a freehold estate, without encumbering himself with any debt whatever. It is believed that an advantage to the general interest of the districts in which the public lands are sold, would result from discontinuing the credit on the sales. The purchaser is in possession of the lands purchased, for four or five years before the completion of his payment. The product of his labor, for that time, is applied in discharge of his debt, and passes into the public Treasury. In as far as the instalments are collected in the district, it operates on the principle of rents collected, and withdrawn from circulation, or of a partial tax on that part of the community. The drain of money from circulation, thus occasioned, has been sensibly felt; and the balance in exchange against the western country, may, on this principle, be accounted for. In case of cash payments, the resources for payment would be drawn from other parts of the country, in as far as emigrants are the purchasers. In a more general point of view, the proposed measure appears important. The accumulation of debt, in particular districts, where the mass of citizens are the debtors, is a consequence attending the credit system. The principles of general policy require that charges on the people, for the necessary supply of revenue, should be diffused over the whole society; by adopting cash payments, this evil would be avoided; and the interest of subsequent purchasers would then be identified with that of the Government.

From the foregoing consideration it is respectfully proposed that credit on future sales shall not be allowed; that the price of the public lands be fixed at one dollar and fifty cents; and that the lands be offered for sale in tracts of eighty acres.

And for that purpose they ask leave to report a bill.

Duelling.

The Senate resumed the consideration of the motion, submitted yesterday by Mr. MORRILL, to request the President to dismiss certain officers from service.

Mr. MORRILL addressed the Chair as follows:

Mr. President, it is with no ordinary degree of sensation that I invite the attention of the Senate to the consideration of the resolution which I had the honor to present. The nature and enormity of the transaction can require but little illustration. It is not my intention to enter into a minute detail of the horror or magnitude of the crime; but, as I had the honor to offer the resolution, it may be expected that I assign some reasons in justification of the proposition. In the first place, sir, I consider the practice of duelling as inhuman. What can be more repulsive to the philanthropic breast than to place before a musket, charged with a ball, at the distance of twelve or fifteen feet, a fellow-citizen for a mark? Humanity shudders, every tender feeling of the heart recoils, and Pagan barbarity itself is put to the blush. But, sir, it is immoral. It tends to demoralize society and corrupt the community. It banishes accountability from the human mind. It represents life and death as of no consequence, and immaterial. It may sometimes deprive society of its useful members.

The practice is unjust and wicked. In consequence of capital offences, by a legal tribunal life may be taken. But shall one citizen, for any trivial offence, take the life of his fellow? It cannot be justified upon any correct principle whatever, either Christian, humane, or civil. Christianity breathes a better spirit; humanity retires with disgust; the civil code condemns and executes the offender. What law, human or divine, will sustain the act? The articles of

war forbid it; State laws forbid it; Virginia herself has forbidden it.

But, sir, General Mason has fallen. A husband, a father, a son, thus prematurely ushered into eternity. And, unless invention and vice are more than ordinarily active, he received encouragement to the sad catastrophe in this city; and the more to be lamented, for, is this the case, his blood must, at least in part, rest upon the heads of his guilty abettors and counsellors.

Lamentable fact! that a gentleman of high standing, who had been a member of this honorable body, and probably would have been the next Governor of Virginia, should be so overcome with pride or with passion as to fall a sacrifice to sentiments so absurd. And, sir, what plausible apology is offered to mitigate the crime? The only plea which ingenuity itself can invent, is grounded upon a false notion of honor. A gentleman is bound by his honor to commit an act of murder. His honor must be sustained by the commission of an offence beneath the dignity of the human species. If this be a correct mode of sustaining a gentleman's honor, why is it prohibited in your army? Why are laws against it? If it will sustain the honor of an individual, it will sustain the honor of the community; the honor of your country; and why do your laws condemn that on which your country's glory is erected?

But, sir, it is a gentleman's way of deciding a controversy. Yes, and the servants; the boys in the street, by this practice, learn high notions of honor, and, to display them, must fight a duel. Base practice, indeed; repugnant to all the refined feelings of a cultivated mind. The better feelings of man revolt at the act. Conscience condemns it, and it must, in time and eternity. From this view of the subject, sir, I am induced to offer the resolution, and am led to hope it will be adopted by the Senate. Let this be as it may, I have discharged my duty; I have expressed my opinion without reserve.

Mr. BARBOUR addressed the Senate as follows:

Mr. President, the event to which the resolution relates has filled me with the deepest affliction. I claim the melancholy privilege of being the chief mourner here. Mason was my friend —a long and intimate acquaintance, ripened into a sincere friendship by an association in this body for several years, gave me an opportunity of appreciating his distinguished worth. Virginia loved him as one of her favorite sons —in war her shield, her ornament in peace. With her the very name had been consecrated to patriotism, through successive generations. Its lustre lost nothing in the person of the deceased. He united the amiable qualities of the man to the higher virtues of the patriot. His loss will be mourned by his country as a public calamity. In the vigor of life, uniting both the affection and confidence of all, and surrounded with every blessing that promised happiness, he has suddenly fallen the victim of a barbarous practice. Cut off in the commencement of a splendid career, he leaves a wretched mother, a disconsolate widow, a fatherless child, and a weeping country.

Oh, what a scene was there! But yesterday Selma was the abode of happiness; to-day it is wrapped in mourning. See on yesterday the affectionate husband, the amiable wife, the tender infant—the pledge and cement of their happiness. To-day, behold that husband carried into the presence of his wife, bathed in gore. See her, frantic with despair, precipitating herself upon the corpse of her bleeding husband, mingling her tears with his flowing blood, and contending with the icy arms of death for the lifeless prize. She lifts her eyes to heaven, the last refuge of the wretched, and in tones of agony cries out, my God, my God, restore my husband! Her prayers are given to the winds; his disembodied spirit has found its refuge and its home in the bosom of its God, while his earthly remains are consigned to the cold and narrow house appointed for all the living. Peace be to his ashes! And may a kind Providence become the friend of the widow; pour balm into her afflicted bosom, and bind up the broken heart; be the father of the fatherless, and let him be the mother's prop; rock the cradle of her declining years, and be a consolation in her dying hour! If any thing can now administer to the affliction of his surviving friends, it will be the knowledge that Virginia, this day, through all her borders, weeps his untimely fall.

As to the practice of duelling, I have already, long since, given proofs of my sentiments, more substantial than mere professions. Whatever credit, if any, be due to it, to me it belongs, of having first presented to the Legislature of my native State the law against duelling. What will be its result on society, all-trying time must decide. The best hopes of humanity are connected with its success; nor is it presumptuous to hope that Heaven may smile on our efforts.

And yet, sir, with these sentiments, I must still be opposed to the resolution under consideration. As to the rumors to which the mover refers, and on which he rests, in part, at least, the success of this motion, they may or may not be true. Incidents of this kind are generally attended with the most exaggerated statements. If, indeed, they be true, as represented, I should feel no hesitation in pronouncing them as deserving the deepest abhorrence. Of some of the persons concerned in this melancholy tragedy, I know nothing; with others I have a slight acquaintance. Their characters forbid the belief that they have acted dishonorably. The statement made by the mover, unsustained by proof, furnishes a strong reason against the adoption of the resolution. For it is palpably an *ex parte* proceeding, and we are called upon to consign to infamy men who have had no opportunity of being heard in their defence. Let us not multiply the regrets already attending this melancholy event, by doing an act of injustice. Let us not commit the dignity of the Senate by

taking cognizance of a subject which belongs to others. If a crime has been committed, the offenders are subject, if, as the resolution supposes, they be military men, to trial by court-martial, and, in any event, by a civil tribunal. To the President, as Commander-in-chief, belongs the former; the latter to the civil magistrate. By this irregular proceeding, should it prevail, we depart from our own duty in prescribing to others, to whom of right the subject belongs, and of whose remissness there is no imputation. The crime of duelling is not to be corrected by a proceeding of this kind. The roots of the evil are too deep to be extirpated by a solitary paroxysm of zeal. Public opinion is the only corrective. No matter what may be the number or severity of penalties that are denounced against this ferocious practice, they, as experience has evinced, are inoperative, unless their enforcement can be secured by the coincidence of public sentiment, or unless, as with us, the law executes itself by disfranchising the offender. So long as public opinion requires of an individual a submission to what is most improperly called the laws of honor, to maintain his grade in society, it is as capricious as unjust to anathematize those who submit to its decrees. Let the press, let your schools, let the pulpit, let your Legislatures, throughout the nation, make a simultaneous effort, and continue it with zeal and perseverance, to extirpate this practice, the undisputed progeny of a barbarous age. Upon such an undertaking, let us hope for the blessing of Heaven.

After other gentlemen had spoken—

Mr. MORRILL made the following remarks:

Mr. President, I learn with pleasure, from what honorable gentlemen have advanced on this subject, there is but one sentiment with respect to the nature and atrocity of the act. A difference of opinion as to the expediency and policy of the measure proposed, is the only difficulty to be encountered.

The honorable gentleman from Kentucky intimates a want of information, and an apprehension that no guilt can be attached to any implicated in this affair. It is very desirable, sir, that this should be the fact. If no guilt, no blame; and, of course, no injury, can be sustained by the innocent; and no evil is to be apprehended.

But the gentleman suggests that favorable expressions have fallen from gentlemen on the floor of the other House. Is this a fact, sir? it is the more to be lamented, and furnishes another reason why this House should express an opinion on the subject. But, sir, the honorable gentleman from Virginia, with whose eloquence I am generally captivated, and by whose arguments I am commonly drawn into his mode of thinking, has expressed the generous feeling of his heart, on the nature of the act, in a manner in perfect coincidence with my views of the subject. The spontaneous effusions of his heart, thus exhibited, I can by no means doubt, and can hardly suppose the social intercourse which he has holden in this House with the unfortunate sufferer should not have created a more than ordinary attachment. But, sir, the honorable gentleman intimates several reasons why this resolution should not be adopted. It is assuming the exercise of a power vested in another department. Your articles of war do not reach the case. They provide for the punishment of those who give or accept a challenge, but not those who are accessory thereto. As to the civil authority, sir, crimes of this kind, in this region, have passed too long unobserved to justify the most remote expectation that cognizance will be taken of this transaction. But, says the gentleman, it may consign to infamy individuals. If guilty, be it so; to this I have no objection. Would to God that all who are guilty of duelling might, by public disapprobation, be consigned to infamy as lasting as time itself. This would be the most successful and sure way to suppress the practice. The honorable gentleman intimates, the public opinion is incorrect, and this is the best corrective; and it is hard to criminate a person for committing a crime when public opinion requires him so to do to maintain his grade in society. Admit, sir, the public opinion is the best corrective, and that public opinion is incorrect—I would ask that honorable gentleman, what is the best method to correct public opinion? Will resolutions passed in private circles effect the object? Would not the opinion of the President have more influence upon society than that of an obscure individual? Would the gentleman, to purify a stream, cast his corrective into the ocean where it empties, or into the fountain where it originated? I presume, into the fountain. And, sir, upon the same principle, if the public opinion is corrupt, let the correction commence here—in the Senate of the United States. Let the stream be purified. Here, I wish to record my vote against an act so inhuman and wicked. A crime which I detest with all the powers of my soul. But, sir, as my desire is to accommodate the feelings of gentlemen, I will withdraw the resolution and submit a substitute.

Mr. M. then offered the following, which was agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing, by law, for the punishment of all persons concerned in duelling within the District of Columbia.

WEDNESDAY, February 10.

The bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes, was read a third time, and passed.

Statue of Washington.

The Senate then resumed the consideration of the bill providing for the erection of an equestrian statue of General WASHINGTON, in pursuance of the resolution of the Congress of 1783.

Considerable discussion took place on this subject; in the course of which Mr. WILSON

moved to postpone the bill to the 5th of March, (to reject it,) with a view of then moving for estimates of expense, &c., to be reported to the House at the next session; which motion was decided by yeas and nays, as follows:

YEAS.—Messrs. Barbour, Burrill, Crittenden, Dickerson, Edwards, Eppes, Lacock, Leake, Macon, Morrow, Noble, Palmer, Roberts, Ruggles, Tait, Taylor, Williams of Massachusetts, and Wilson—18.

NAYS.—Messrs. Daggett, Eaton, Forsyth, Fromentin, Goldsborough, Horsey, Hunter, Johnson, King, Mellen, Morrill, Otis, Sanford, Stokes, Talbot, Tichenor, Van Dyke, and Williams of Tennessee—18.

THURSDAY, February 11.

Statue of Washington.

The Senate resumed the consideration of the bill for the erection of an equestrian statue of General GEORGE WASHINGTON, in the Capitol square.

Mr. OTIS moved to postpone the bill to the 5th day of March, (to reject it;) which motion was decided in the negative, by yeas and nays, as follows:

YEAS.—Messrs. Barbour, Burrill, Crittenden, Dickerson, Eppes, Lacock, Leake, Macon, Morrow, Noble, Otis, Roberts, Tait, Taylor, and Wilson—15.

NAYS.—Messrs. Daggett, Eaton, Forsyth, Fromentin, Goldsborough, Horsey, Hunter, Johnson, King, Mellen, Morrill, Sanford, Stokes, Storer, Talbot, Tichenor, Van Dyke, and Williams of Tennessee—18.

On motion of Mr. DAGGETT, the bill was amended, by adding a proviso, that, if the President should find that the monument would cost more than $150,000, the sum appropriated, he should not proceed to execute the act, but make a report of the estimated cost to the next session of Congress.

The question was then taken on ordering the bill, as amended, to be engrossed and read a third time, and decided affirmatively, by yeas and nays, as follows:

YEAS.—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Fromentin, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Mellen, Morrill, Otis, Sanford, Stokes, Storer, Talbot, Thomas, Tichenor, Van Dyke, and Williams of Tennessee—23.

NAYS.—Messrs. Eaton, Edwards, Eppes, Forsyth, Lacock, Macon, Morrow, Palmer, Roberts, Ruggles, Tait, Taylor, Williams of Mississippi, and Wilson—14.

WEDNESDAY, February 17.

The PRESIDENT communicated a letter from JOHN FORSYTH, notifying the resignation of his seat in the Senate; and the letter was read; and, on motion by Mr. TAIT, the President was requested to notify the Executive of the State of Georgia of this resignation.

Missouri State Bill.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States."

The two bills last mentioned were read, and passed to the second reading.

On motion, by Mr. TALBOT, the bill to authorize the people of the Missouri Territory to form a constitution and State government was read the second time, by unanimous consent, and referred to the committee on the memorial of the Legislative Council and House of Representatives of the Alabama Territory, praying admission into the Union as a State.

The bill for the relief of David Henley was read a third time, and passed.

Committee on the Seminole War.

Mr. LACOCK submitted the following motion:

Resolved, That a member be added to the committee already appointed on the subject of the Seminole war, in the place of the honorable Mr. FORSYTH, who has recently been appointed to a foreign mission.

After considerable debate, Mr. EATON moved to postpone the motion to the 5th day of March next, [to defeat it,] on the ground that it would be an unnecessary consumption of the time of the Senate, if not a deviation from the line of its duty, to enter at this late period of the session into an investigation and debate on this subject, which, after a debate of unexampled length, had been solemnly decided on in the House of Representatives. To this it was replied, that nothing more was proposed, in this instance, than was on other occasions considered as matter of course. When an inquiry into the conduct of a public officer or officers, was asked from a respectable source, it was invariably granted; and it would be, it was said, no more than consistent with self-respect, to prosecute to some result the inquiry already commenced in this case. This motion to postpone was negatived, by yeas and nays, 21 to 16, as follows:

YEAS.—Messrs. Crittenden, Dickerson, Eaton, Edwards, Fromentin, Johnson, King, Leake, Morrow, Otis, Ruggles, Sanford, Stokes, Storer, Williams of Mississippi, and Wilson.

NAYS.—Messrs. Barbour, Burrill, Daggett, Eppes, Gaillard, Goldsborough, Horsey, Hunter, Lacock, Macon, Mellen, Noble, Palmer, Roberts, Tait, Talbot, Taylor, Thomas, Tichenor, Van Dyke, and Williams of Tennessee.

The motion of Mr. LACOCK to fill up the committee was opposed, and of Mr. EATON to postpone the proceedings, was supported by Messrs. OTIS, EATON, and FROMENTIN; on the other side were Messrs. LACOCK, EPPES, BURRILL, TALBOT, GOLDSBOROUGH, and MACON. It was contended by the former, that, without deciding upon the right of the Senate, abstractly, to institute inquiries into the conduct of public officers, or to exercise a censorial power in other cases than those of impeachment, it was sufficient to show that, in this instance, such an interference would be entirely inexpedient. For,

that the conduct of the commanding officer in the Seminole war had been at least excused by the President of the United States, and that, so far as that general officer was censured, there was no difference between the previous orders and a subsequent excuse or justification. In either case, the mantle of his superior officer was a screen for him; and, if the Executive government had thus assumed the responsibility without sufficient motives and reasons, persons other than General Jackson might be held to answer before the Senate in another capacity, and that this body might thus be placed in a situation of embarrassment, unfavorable to a just and impartial discharge of judicial duties. That if this were true in ordinary cases, it was most emphatically so in the present instance. The House of Representatives was the great inquest and constitutional accuser of the nation. And, after a most laborious investigation and debate, had decided in favor of a *nol. pros.* It would seem then to betray a great eagerness to exercise the faculty of censure and condemnation, to pursue a supposed delinquent after that House had rejected a bill of indictment. The Senate would be placed in an unfavorable and undignified attitude—be chargeable with a spirit of persecution, and would separate themselves, not only from the House of Representatives, but from the people, and excite, in favor of the principal party, feelings of sympathy that would defeat the object of exhibiting the triumph of the civil over the military power. Many remarks were also added to show that to refuse to fill up the committee, or to postpone generally, or to discharge the committee, were equivalent motions, and all in perfect conformity with correct and dignified proceedings.

On the other hand, the filling up the committee was supported and the postponement resisted, upon the suggestion that the committee, after making progress in their inquiries, and after much laborious research, and after a majority of them were agreed on many points, were divided upon others, and that the Senate was bound by the respect due to itself to fill up the vacancy and not stifle the report; and that afterwards, upon a motion to discharge the committee, if it should be offered, conclusive reasons should be shown against that measure. To decline replacing a member, whose sentiments were known to be unfavorable to the proceedings in the Seminole war, and who had received an Executive appointment, would be to expose the motives of the Executive to misconstruction. That the Senate possessed a concurrent right with the House of Representatives to originate any investigation into the proceedings of public officers, or the conduct of public affairs, and was bound as an independent branch of the Legislature to discharge its duty, without any reference to the proceedings of the House, to which all allusions were unparliamentary and improper. It was denied to be the correct doctrine that a military officer is in all cases protected by the command or justification of his superior; and, if it were true, it might be better to disband the army. That the present moment was favorable to sustaining and defining the rights of the Senate. And, finally, that it would not follow of course that the present proceedings would involve a question of censure or approbation of any officer; but the committee might possess evidence (and it was suggested that they did) of irregularities not exhibited to the House, which might demand legislative interposition and reform.

The motion of Mr. LACOCK was then agreed to, and Mr. EPPES was appointed the member.

THURSDAY, February 18.

Public Lands.

The Senate resumed, as in Committee of the Whole, the consideration of the bill making further provision respecting the sale of the public lands.

[For the following remarks, made by Mr. CRITTENDEN, in conclusion of a speech in support of the bill, we are obliged to a friend who was present at the debate, for being enabled to lay before our readers.—*Editors.*]

Mr. President, I must acknowledge to you that I feel a peculiar sort of partiality for this bill; and that, independent of the reasons which I have had the honor of submitting, I am influenced by feelings somewhat of a personal character to desire its passage. It is the work of the honorable gentleman from Ohio, (Mr. MORROW,) who is so soon to be finally separated from us. He has long been our Palinurus in every thing that related to this important subject. He has steered us safely through all its difficulties, and, with him for our helmsman, we have feared neither Scylla nor Charybdis. We have heretofore followed him with increasing confidence. We have never been deceived or disappointed. The bill now before you is probably the last, the most important, act of his long and useful political life. If it shall pass, sir, it will identify his name and his memory with this interesting subject. It will be his "perennius ære." A noble monument! which, whilst it guides the course of future legislation, shall perpetuate the remembrance of an honest man. Sir, if the ostracism of former times prevailed with us, I do not know the individual whose virtues would more expose him to its envious and jealous sentence. The illustrious Greek himself, who derived such unfortunate distinction from that ancient usage, did not better deserve the epithet of "just." Mr. President, I do not intend to flatter the honorable gentleman from Ohio. Flattery is falsehood. I burn no such incense at the shrine of any man. The sincere homage of the heart is not flattery. I have spoken the spontaneous feelings of my own breast. I am confident, too, that I have spoken the sentiments of the Senate. But yet, sir, I ought, perhaps, to beg pardon of the honorable gentleman. For, I have much cause to fear that the gratification I have had in offering this

poor tribute of my respect, is more than counterbalanced by the pain it has inflicted on him.

FRIDAY, February 19.

British Colonial Trade.

In Executive session—

Mr. MACON, from the Committee on Foreign Relations, to whom was referred so much of the documents accompanying the Commercial Convention with Great Britain, as relates to the colonial trade, made the following report, which was read:

That the object of the negotiation with Great Britain, respecting the colonial trade, is the establishment of a regulation whereby a trade in articles of the produce and manufacture of the United States, and of the British Colonies, may be carried on between them; and secondly, a regulation whereby the shipping of the two countries may be placed on an equal footing in the carrying on of this trade.

In respect to the articles of the trade, the United States would agree that all articles of the produce and manufacture of the United States, and of the respective colonies, should be included, and all other articles excluded. But as Great Britain probably would not consent to this arrangement, the United States would not object to the catalogue of articles of the produce and manufactures of the United States, and of the said colonies, enumerated in the British act of Parliament, and according to which the trade has heretofore been carried on in British bottoms.

As respects duties and charges, they should be placed on a footing of reciprocal equality: if Great Britain would consent to impose no higher or other duties on articles of the produce and manufacture of the United States imported into the colonies, than upon the like articles imported from her continental colonies, (whence only they can be obtained,) the United States might agree to impose no greater or other duties and charges on articles the produce and manufacture of her colonies, than on the like articles from other countries. To this adjustment Great Britain will probably disagree: in lieu thereof, and as a compensation for the stipulation not to impose greater or other duties on the colonial articles of Great Britain, than on the like articles of other countries, it might be stipulated, on the part of Great Britain, that the duties and charges on articles of the produce and manufacture of the United States, should not exceed by more than —— per cent. those which should be imposed on the like articles imported from the British continental colonies.

In no event should articles of the produce and manufacture of the United States pay higher duties and charges in the direct voyage from the United States than in the indirect or circuitous voyage through New Brunswick, Nova Scotia, Bermudas, or other intermediate ports; and as the direct trade should not be more restrained in respect to the articles thereof, than the indirect or circuitous trade, no article should be allowed to go or come indirectly or circuitously, which might not go or come directly.

There is nothing in principle or policy that forbids the confining of this trade to articles of the produce or manufacture of the respective countries; that is, of the United States and of the British colonies; articles of produce and manufacture of other portions of the British territories coming through these colonies being excluded from the United States, as articles not of the produce and manufacture of the United States are excluded from Great Britain, and would be excluded from the British colonies.

As respects the shipping employed in this trade, it must be placed on a footing of practical and reciprocal equality, both as respects duties and charges, and the equal participation of the trade; on this adjustment, even, there will exist an advantage in favor of the English navigation; as it will be exclusively employed in the transportation of articles of the produce and manufacture of the United States, between the intermediate colonies aforesaid and the West India Colonies, and likewise in a disproportioned degree, in the distribution of these articles among the British West India Colonies.

Furthermore, as the voyage from the United States to New Brunswick, Nova Scotia, and Bermuda, is a short one, and would yield but little profit, the duties and charges must be as great on the British ships, and the articles of the produce and manufacture of the United States composing their cargoes, arriving in the British West India Colonies, through these intermediate colonies, as on the same ships and articles arriving directly from the United States; otherwise the direct trade will be deserted in favor of the circuitous trade, and thereby the object of the arrangement, an equality in the employment of the shipping of the two countries, will be defeated. So far as the operation of the late navigation law is understood, it seems to have been advantageous, and especially in the increase of the American shipping engaged in the direct trade between the United States and Great Britain, and the corresponding decrease of that of Great Britain—but sufficient time has not yet been afforded satisfactorily to ascertain this point, or to determine other questions that are in a course of solution.

Perhaps it would be prudent to allow time for this important experiment, and to suffer the negotiation on this subject to remain where it is for the present. It ought not to be forgotten, that without cutting off the trade with New Brunswick, Nova Scotia, and Bermuda, this experiment cannot be fairly made. Whether it would be expedient at the present session to adopt this measure, is perhaps doubtful.

If the effect of our navigation law, reinforced according to the above suggestion, should prove to be such as it not improbably will be, it might, and probably would be our true footing to adhere to the law, and decline any convention with Great Britain, touching the colonial trade.

MONDAY, February 22.

SAMUEL W. DANA, from the State of Connecticut, attended this day.

TUESDAY, February 23.

The PRESIDENT communicated the credentials of WALLER TAYLOR, appointed a Senator by the Legislature of the State of Indiana, for the term of six years, commencing on the fourth day of March next; which were read, and laid on file.

WEDNESDAY, February 24.

Report on the Seminole War.

Mr. LACOCK, from the committee appointed in pursuance of a resolution of the Senate of the 18th December last, "That the Message of

the President and documents, relative to the Seminole war, be referred to a select committee, who shall have authority, if necessary, to send for persons and papers; that said committee inquire relative to the advance of the United States troops into West Florida; whether the officers in command at Pensacola and St. Marks were amenable to, and under the control of, Spain; and, particularly, what circumstances existed, to authorize or justify the commanding general in taking possession of those posts," reported, &c.

THURSDAY, February 25.

The PRESIDENT communicated the credentials of JOHN GAILLARD, appointed a Senator by the Legislature of the State of South Carolina, for the term of six years, commencing on the fourth day of March next; which were read, and laid on file.

SATURDAY, February 27.

Missouri State Bill.

The bill from the other House to authorize the people of Missouri to form a constitution, &c., was resumed; and, with the various motions relative to it, gave rise to a long and animated debate.

Mr. WILSON moved to postpone the further consideration of the bill to a day beyond the session, which motion was decided as follows:

YEAS.—Messrs. Burrill, Daggett, Dickerson, King, Lacock, Mellen, Morrill, Otis, Roberts, Sanford, Storer, Tichenor, Van Dyke, and Wilson—14.

NAYS.—Messrs. Barbour, Crittenden, Dana, Eaton, Edwards, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Johnson, Leake, Macon, Morrow, Noble, Palmer, Ruggles, Stokes, Tait, Talbot, Thomas, Williams of Mississippi, and Williams of Tennessee—23.

So the question was negatived.

On the question to agree to a proposition to strike out the restriction against the introduction or toleration of slavery in said new State, a division of the question was called for, and the question was taken on striking out the latter clause of said restriction, as follows: "And that all children of slaves, born within the said State, after the admission thereof into the Union, shall be free, but may be held to service until the age of twenty-five years." And decided as follows:

YEAS.—Messrs. Barbour, Crittenden, Daggett, Dana, Eaton, Edwards, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Johnson, King, Lacock, Leake, Macon, Morrow, Otis, Palmer, Roberts, Sanford, Stokes, Storer, Tait, Talbot, Thomas, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee—31.

NAYS.—Messrs. Burrill, Dickerson, Mellen, Morrill, Noble, Ruggles, and Wilson—7.

So it was agreed to strike out that clause.

The question was then taken to strike out the first clause of said restriction, in the words following: "*And provided also*, That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall have been duly convicted;" and decided as follows:

YEAS.—Messrs. Barbour, Crittenden, Eaton, Edwards, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Johnson, Lacock, Leake, Macon, Otis, Palmer, Stokes, Tait, Talbot, Thomas, Van Dyke, Williams of Mississippi, and Williams of Tennessee—22.

NAYS.—Messrs. Burrill, Daggett, Dana, Dickerson, King, Mellen, Morrill, Morrow, Noble, Roberts, Ruggles, Sanford, Storer, Taylor, Tichenor, Wilson—16.

So it was decided to strike out this clause also; when, before finally acting on the bill, the Senate adjourned.

MONDAY, March 1.

Territory of Arkansas.

The Senate resumed the bill, entitled "An act establishing a separate Territorial government in the southern part of the Territory of Missouri;" it having been previously read a third time.

On motion by Mr. BURRILL,

"That the said bill be recommitted to the committee to whom the same was first referred, with instructions so to amend the same, that the further introduction of slavery or involuntary servitude within the said Territory, except for the punishment of crimes, be prohibited."

It was determined in the negative—yeas 14, nays 19, as follows:

YEAS.—Messrs. Burrill, Daggett, Dana, Dickerson, King, Lacock, Mellen, Noble, Roberts, Ruggles, Sanford, Storer, Tichenor, and Wilson.

NAYS.—Messrs. Barbour, Crittenden, Eaton, Edwards, Eppes, Fromentin, Gaillard, Goldsborough, Johnson, Leake, Macon, Morrow, Stokes, Tait, Talbot, Taylor, Thomas, Williams of Mississippi, and Williams of Tennessee.

On the question, "Shall this bill pass?" it was determined in the affirmative. So it was resolved that this bill pass.

TUESDAY, March 2.

Missouri State Bill—House non-concurs in Senate Amendment.

A message from the House of Representatives informed the Senate that they have concurred in all the amendments of the Senate to the bill, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," except the eleventh, and to that they disagree.

Senate adheres to its Amendment.

The Senate proceeded to consider the eleventh amendment, disagreed to by the House of Representatives. [This amendment struck out the prohibitory clause concerning the toleration of slavery in said State.]

Whereupon, on motion of Mr. TAIT, the Senate resolved to adhere to their said amendment.

WEDNESDAY, March 3.

The credentials of WILLIAM A. PALMER, appointed a Senator by the Legislature of the State of South Carolina, for the term of six years, commencing on the fourth day of March instant, were communicated and read, and laid on file.

Missouri State Bill—House adheres to its Bill.

A message from the House of Representatives informed the Senate that the House adhere to their disagreement to the eleventh amendment proposed and adhered to by the Senate to the bill, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States."*

Six o'clock in the Evening.

On motion by Mr. MACON, a committee was appointed on the part of the Senate, jointly with such committee as may be appointed on the part of the House of Representatives, to wait on the President of the United States, and notify him, that unless he may have other communications to the two Houses of Congress, they are ready to adjourn. Mr. MACON and Mr. DAGGETT were appointed the committee.

On motion by Mr. BURRILL,

Resolved, unanimously, That the thanks of the Senate be presented to the honorable JAMES BARBOUR, Senator from Virginia, for the dignified and impartial manner in which he has discharged the important duties of the President of the Senate, since he was called to the Chair.

Resolved, unanimously, That the thanks of the Senate be also presented to the honorable JOHN GAILLARD, Senator from South Carolina, for the dignified and impartial manner in which he discharged the important duties of President of the Senate during the time he presided therein.

Whereupon Mr. BARBOUR addressed the Senate as follows:

Gentlemen: The sensibility produced by this new evidence of your kindness and approbation, is beyond my power to express. I would rather refer to your own bosoms as furnishing a more correct standard by which to appreciate it. I have the consolation to reflect, that whatever of zeal or capacity I possess, has been devoted to the discharge of the duties of my station; your approbation is more than an ample reward. Permit me, as the moment of separating is approaching, from all for a season, from some perhaps forever, to tender you all an affectionate farewell, and to pray that upon your return to your respective homes, your reception may be such, in all your relations, as may make you happy.

Mr. GAILLARD then rose and made the following address:

Mr. President: Next to the satisfaction arising from the consciousness of faithfully performing our duty the favorable opinion of those with whom we are associated affords the highest gratification that can be received; and the present vote of approbation, together with the many acts of kindness I have experienced from this honorable body, have excited in my mind feelings of gratitude which neither time nor circumstances can ever efface.

A message from the House of Representatives informed the Senate that the House, having finished the business before them, are about to adjourn.

Mr. MACON reported, from the joint committee, that they had waited on the President of the United States, who informed them that he had no further communication to make to the two Houses of Congress.

The Secretary was then directed to inform the House of Representatives that the Senate, having finished the legislative business before them, are about to adjourn.

The PRESIDENT then adjourned the Senate *sine die.*

* The two Houses adhering—one to its bill, the other to its amendment—the bill was consequently lost.

FIFTEENTH CONGRESS.—SECOND SESSION.

PROCEEDINGS AND DEBATES

IN

THE HOUSE OF REPRESENTATIVES.

MONDAY, November 16, 1818.

This being the day fixed by law for the meeting of Congress, HENRY CLAY, the Speaker, THOMAS DOUGHERTY, the Clerk, and the following members of the House of Representatives, appeared and took their seats, to wit:

From New Hampshire—Josiah Butler, Clifton Clagett, Samuel Hale, Arthur Livermore, John F. Parrott, and Nathaniel Upham.

From Massachusetts—Benjamin Adams, Joshua Gage, John Holmes, Jonathan Mason, Marcus Morton, Benjamin Orr, Thomas Rice, Nathaniel Ruggles, Zabdiel Sampson, Henry Shaw, Nathaniel Silsbee, and Ezekiel Whitman.

From Rhode Island—John L. Boss, jun.

From Connecticut—Ebenezer Huntington, Jonathan O. Mosely, Timothy Pitkin, Nathaniel Terry, and Thomas S. Williams.

From Vermont—Heman Allen, Samuel C. Crafts, William Hunter, Orsamus C. Merrill, Charles Rich, and Mark Richards.

From New York—Oliver C. Comstock, John P. Cushman, Josiah Hasbrouck, John Herkimer, Thomas H. Hubbard, William Irving, Dorrance Kirtland, Thomas Lawyer, John Palmer, John Savage, Philip J. Schuyler, Tredwell Scudder, Henry R. Storrs, James Tallmadge, jun., John W. Taylor, George Townsend, Rensselaer Westerlo, James W. Wilkin, and Isaac Williams.

From New Jersey—Ephraim Bateman, Benjamin Bennett, Joseph Bloomfield, Charles Kinsey, John Linn, and Henry Southard.

From Pennsylvania—William Anderson, Henry Baldwin, Andrew Boden, Isaac Darlington, Joseph Hopkinson, William P. Maclay, David Marchand, Robert Moore, John Murray, Alexander Ogle, Thomas Patterson, Thomas J. Rogers, John Sergeant, Adam Seybert, Christian Tarr, James M. Wallace, John Whiteside, and William Wilson.

From Maryland—Thomas Bayley, Thomas Culbreth, John C. Herbert, Peter Little, George Peter, Philip Reed, Samuel Smith, and Philip Stuart.

From Virginia—Archibald Austin, Philip P. Barbour, William A. Burwell, John Floyd, Robert S. Garnett, William J. Lewis, William McCoy, Charles F. Mercer, Hugh Nelson, Thomas Newton, James Pindall, James Pleasants, Alexander Smyth, and Henry St. George Tucker.

From North Carolina—Weldon N. Edwards, Thos. H. Hall, George Mumford, Lemuel Sawyer, Thomas Settle, Jesse Slocumb, James S. Smith, James Stewart, Felix Walker, and Lewis Williams.

From South Carolina—Joseph Bellinger, Henry Middleton, and Sterling Tucker.

From Georgia—Zadock Cook, Joel Crawford, John Forsyth, and William Terrell.

From Kentucky—Joseph Desha, Richard M. Johnson, Anthony New, Tunstall Quarles, George Robertson, Thomas Speed, David Trimble, and David Walker.

From Tennessee—Thomas Claiborne, Francis Jones, and John Rhea.

From Ohio—John W. Campbell, and William Henry Harrison.

From Indiana—William Hendricks.

From Mississippi—George Poindexter.

The following members elected to supply vacancies in the House, also appeared, were qualified, and took their seats, viz:

From Massachusetts, ENOCH LINCOLN, vice Mr. Parris, resigned.

From Connecticut, SYLVESTER GILBERT, vice Mr. Holmes, resigned.

From Pennsylvania, SAMUEL MOORE, vice Mr. Ingham, resigned, and JACOB HOSTETTER, vice Mr Spangler, resigned.

From Virginia, JOHN PEGRAM, vice Mr. Goodwyn, deceased.

From Louisiana, THOMAS BUTLER, vice Mr. Robertson, resigned.

JOHN SCOTT, the delegate from the Territory of Missouri, and JOHN CROWEL, the delegate from the Territory of Alabama, also appeared and took their seats.

A quorum being present, messages were exchanged with the Senate to that effect.

Messrs. TAYLOR and BALDWIN were appointed on the part of this House, on the joint committee for waiting on the President.

The SPEAKER laid before the House a copy of the constitution of the State of Illinois, adopted in convention at Kaskaskia, on the 26th day of August, 1818; which was ordered to lie on the table.

TUESDAY, November 17.

Several other members, to wit: from Massachusetts, WALTER FOLGER, jr., and JOHN WILSON; from New York, BENJAMIN ELLICOTT and DAVID A. OGDEN; from Delaware, LOUIS MCLANE; from Virginia, THOMAS M. NELSON, BALLARD SMITH, and EDWARD COLSTON; from North Carolina, JAMES OWEN; from Georgia, THOMAS W. COBB; from Tennessee, SAMUEL HOGG; and from Ohio, PHILEMON BEECHER and LEVI BARBER, appeared, and took their seats.

Mr. TAYLOR, from the joint committee appointed to wait on the President of the United States, reported that they had discharged that duty, and that the President informed the committee he would this day make a communication to the two Houses of Congress.

WEDNESDAY, November 18.

Several other members, to wit: from New York, JOHN R. DRAKE, JAMES PORTER, and JOHN C. SPENCER; from Virginia, BURWELL BASSETT; and from Tennessee, WILLIAM G. BLOUNT, appeared, and took their seats.

THURSDAY, November 19.

Three other members, to wit: from Massachusetts, JEREMIAH NELSON; from Pennsylvania, WILLIAM MACLAY; and from Kentucky, RICHARD C. ANDERSON, jr., appeared, and took their seats.

The SPEAKER laid before the House a letter from the Governor of the State of Pennsylvania, enclosing the credentials of SAMUEL MOORE, as a member of this House, in the room of Samuel D. Ingham, resigned; which was referred to the Committee of Elections.

State of Illinois—Question of Swearing in its Representative.

Mr. MCLEAN, Representative from the new State of Illinois, being in attendance—

The SPEAKER stated to the House a difficulty which he felt in deciding upon the propriety of administering the oath to him, in consequence of Congress not having concluded the act of admission of the State into the Union. Under this difficulty, he submitted the question to the decision of the House.

Mr. POINDEXTER, of Mississippi, said he thought it incumbent on the House, before admitting the Representative to a seat, to examine the constitution just laid before it, to see, first, whether the requisitions of the act of last session were complied with; and, secondly, whether the form of government established was republican, which the United States were bound to guarantee. He illustrated the irregularity of a different procedure, by putting the case that the member was admitted to a seat, allowed to vote on important questions, and the constitution subsequently rejected.

Mr. HARRISON, of Ohio, wished a different course to be pursued, and one for which he adduced precedent, in the case of the Representative from one of the States lately admitted. The House had taken for granted the fact of a compliance with the law, and of the republican form of government established, and had admitted the member without question to his seat. In the present case, Mr. H. was unwilling to depart from the precedent, for mere form's sake.

Mr. PITKIN, of Connecticut, said that this was a question which, he believed, had never before been presented to the House. He thought, for himself, that, before admitting a Representative to a seat, the question, whether the people who elected him were a State, ought to be decided. To the decision of this question, several things were necessary; for instance, the law of last session required that the Territory in question should have had a certain population, to justify its forming a constitution and State government. This fact ought to be officially established, &c., and the resolution of admission passed, before a Representative took his seat.

The question having been put, it was decided apparently by a large majority that the SPEAKER should not at this time administer the oath of office.

Ordered, That the constitution of the State of Illinois be referred to a select committee; and Messrs. ANDERSON, of Kentucky, POINDEXTER, and HENDRICKS, were appointed the said committee.

FRIDAY, November 20.

The SPEAKER presented a memorial and petition of Matthew Lyon, formerly a member of the House of Representatives from the State of Vermont, detailing the circumstances attending his prosecution for sedition, in the year 1798, and complaining of the unconstitutionality of the act under which he was prosecuted, of illegality in the proceedings of the court, and of the fine which he was compelled to pay, and the imprisonment he suffered; and also setting forth the iniquity of the motives which prompted the said prosecution; and praying that the amount of the said fine, with the interest thereon, may be granted to him, together with such sum as Congress may think a just indemnity for his being dragged from his home, his family, friends, and business, and thrown into a loathsome dungeon, where he suffered every species of hardship and indignity, which the most prosecuting spirit could devise, for four months.

Mr. WILLIAMS, of North Carolina, moved to refer the petition to the Judiciary Committee.

Mr. EDWARDS, of North Carolina, thought, that, as this petition embraced a claim, it would be proper to let it take the course of all other claims, by referring it to the Committee of Claims.

Mr. WILLIAMS said, though it was a claim, it was a claim arising from the operation of a law

of the country supposed by the petitioner to be unconstitutional. Who could so well determine a question with regard to the constitutionality or unconstitutionality of a law, as the Judiciary Committee? Such cases had been usually referred to that committee; and even at the last session that committee had been directed to inquire into a fraud, said to have been committed in one of the courts of the United States.

On motion of Mr. SPENCER, of New York, the petition was read through, and was then referred to the Committee on the Judiciary.

State of Illinois.

Mr. ANDERSON, of Kentucky, from the select committee, to whom was referred the constitution of the State of Illinois, reported a resolution, declaring the admission of the State of Illinois into the Union, on an equal footing with the original States.

The resolution was read a first and second time.—Mr. ANDERSON proposed that it should be engrossed for a third reading.

Mr. SPENCER, of New York, inquired whether it appeared, from any documents transmitted to Congress, that the State had the number of inhabitants required by the law of the last session, as a preliminary to its formation of a constitution.

Mr. ANDERSON said that the committee had no information on that subject before them, beyond what was contained in the preamble to the constitution, which states, that the requisitions of the act of Congress had been complied with, and that the convention had therefore proceeded to the formation of a constitution. Mr. A said, the committee had considered that evidence sufficient; and he had, in addition, himself seen, in the newspapers, evidence sufficient to satisfy him of the fact, that the population did amount to forty thousand souls, the number required.

The resolve was then ordered to be engrossed for a third reading.

MONDAY, November 23.

Several other members, to wit: from New York, DANIEL CRUGER, PETER H. WENDOVER, and CALEB TOMPKINS; from South Carolina, JAMES ERVIN, ELIAS EARLE, and ELDRED SIMKINS, appeared, and took their seats.

Mr. HUGH NELSON presented a memorial of William Lambert, accompanied with abstracts of astronomical calculations, to ascertain the longitude of the Capitol in this city, from the observatory of Greenwich in England, soliciting the adoption of measures authorizing additional observations to be made to test the accuracy of the result already obtained; which was referred to a select committee; and Messrs. HUGH NELSON, FOLGER, SEYBERT, CRAWFORD, and BATEMAN, were appointed the said committee.

District of Columbia.

The SPEAKER also laid before the House a letter from William Cranch, Chief Justice of the circuit court of the United States, for the District of Columbia, transmitting a code of jurisprudence for the said district, prepared (by him) under the authority of the act of the 29th of April, 1816, entitled "An act authorizing the Judges of the circuit court, and the Attorney for the District of Columbia, to prepare a code of jurisprudence for the said district," which was referred to a select committee; and Messrs. HERBERT, CULBRETH, GARNETT, WILLIAMS of Connecticut, and ADAMS, were appointed the said committee. The letter is as follows:

NOVEMBER 9, 1818.

SIR: The undersigned, one of the Judges of the circuit court for the District of Columbia, has the honor to present, for the consideration of Congress, a Code of Jurisprudence for that district, prepared under the authority of the act of the 29th of April, 1816, entitled "An act authorizing the Judges of the circuit court, and the Attorney for the District of Columbia, to prepare a Code of Jurisprudence for the said district."

It is to be regretted, that the engagements of the gentlemen intended by that act to have been associated with him in the business, have deprived the public of the benefit of their labors. This circumstance will in part account for the lateness of the period at which the report is made. It is, however, a work which could not have been hastily done; for, although the district is small, yet almost every case requiring the interposition of law, which can arise in the largest nation, may arise in this district, and ought to be provided for.

In preparing a substitute for the existing statute law it was necessary, if possible, to ascertain what that law was. This was not an easy task.

By the act of Congress, of the 27th of February, 1801, the laws of Virginia, as they then existed, were to remain in force in that part of the district which was ceded by Virginia, and the laws of Maryland in that part which was ceded by Maryland. The laws thus adopted, consisted of so much of the common law of England as was applicable to the situation of this country; of the bills of rights, constitution, and statutes of Virginia and Maryland, modified by the Constitution and laws of the United States, and, also, (in regard to that part of the district which was ceded by the State of Maryland,) of such of the English statutes as existed at the time of the first emigration to Maryland, "and which, by experience, had been found applicable to their local and other circumstances, and of such others as had been since made in England or Great Britain, and had been introduced, used, and practised by the courts of law or equity" of that State.

To ascertain, therefore, what was the existing statute law, it was necessary to know what statutes of England, enacted before the first emigration to Maryland, had by experience been found applicable to the local and other circumstances of the country, and what statutes since made in England or Great Britain, had been introduced, used, and practised by the courts of law or equity in that State: and also what statutes of England or Great Britain had been expressly re-enacted by the State of Virginia.

To obtain this knowledge with as much certainty as the nature of the case would permit, it was necessary to examine minutely the English and British statutes, and compare them with the statutes enacted by Virginia and Maryland.

From these three systems of statutes, to select such as were most important and best adapted to the circumstances of the district; to supply such defects as were discovered, and to combine the whole into one code—required more deliberation, and occupied more time, than was anticipated.

These circumstances must account for the apparent delay in making the present report, which is even now submitted with much diffidence.

With high consideration, the undersigned has the honor to be, sir, your obedient servant,

W. CRANCH.

Hon. HENRY CLAY,
Speaker House of Representatives.

Annual Treasury Report.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting his annual report upon the state of the finances; which was ordered to lie on the table. The report is as follows:

TREASURY DEPARTMENT, *Nov.* 21, 1818.

In obedience to the directions of the "Act supplementary to the Act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following report and estimates:

Revenue.

The net revenue arising from duties upon imports and tonnage, internal duties, direct tax, public lands, postage, and incidental receipts, during the year 1816, amounted to $36,743,574 07, viz:

Customs		$27,569,769 71
Internal duties		4,396,133 25
Direct tax		2,785,343 20
Public lands, exclusive of Mississippi stock		1,754,487 38
Postage and incidental receipts		237,840 53
		$36,743,574 07

And that which accrued from the same sources during the year 1817, amounted to $24,387,993 08, viz:

Customs (see statement A)	$17,547,540 89
Internal duties and direct tax (see statement B)	4,512,287 81
Public lands exclusive of Mississippi stock (see statement C)	2,015,977 00
Postage and incidental receipts	312,187 38
	$24,387,993 08

It is ascertained that the gross amount of duties on merchandise and tonnage, which have accrued during the three first quarters of the present year exceeds $21,000,000, and that the sales of the public lands, during the same period, greatly exceed, both in quantity and value, those of the corresponding quarter of last year.

The payments into the Treasury during the three first quarters of the year, are estimated to amount to $17,167,862 26, viz:

Customs		$13,401,409 65
Internal revenue and direct tax		993,574 36
Public lands, exclusive of Mississippi stock		1,875,731 20
Interest upon bank dividends		525,000 00
Postage and incidental receipts		49,438 19
Repayments into the Treasury		322,708 86
		$17,167,862 26
And the payments into the Treasury during the fourth quarter of the year, from the same sources, are estimated at		5,000,000 00
Making the total amount estimated to be received into the Treasury during the year 1818		22,167,862 26
Which added to the balance in the Treasury on the 1st day of January last, exclusive of $8,809,872 10 in Treasury notes amounting to		6,179,883 38
Makes the aggregate amount of		$28,347,745 64

The application of this sum, for the year 1818, is estimated as follows: To the 30th September the payments (exclusive of $9,148,237 40 of Treasury notes, which had been drawn from the Treasury and cancelled) have amounted to $16,760,237 05, viz:

Civil, diplomatic, and miscellaneous expenses	$3,289,806 28	
Military service, including arrearage	5,620,263 08	
Naval service, including the permanent appropriation for the gradual increase of the Navy	2,383,000 00	
Public debt, exclusive of the $9,148,237 40 of Treasury notes, which have been drawn out of the Treasury and cancelled	5,467,267 69	
During the 4th quarter it is estimated that the payments will amount to $9,475,000, viz:		
Civil, diplomatic, miscellaneous expenses	520,000 00	
Military service	1,175,000 00	
Naval service	575,000 00	
Public debt to 1st of January, 1819	7,205,000 00	
Making the aggregate amount of		$26,235,337 05
And leaving, on the 1st day of January, 1819, a balance in the Treasury, estimated at		$2,112,408 59

Of the Estimates of the Public Revenue and Expenditures for the year 1819.

In the annual report of the state of the Treasury of the 5th of December, 1817, the permanent revenue

was estimated at $24,525,000 per annum; and the annual expenditure, according to the then existing laws, was stated at $21,946,351 74. By the acts of the last session of Congress, the internal duties, estimated at $2,500,000 per annum, were repealed, whilst the expenditure was augmented to nearly $25,000,000; and that of the ensuing year is estimated at not less than $24,515,219 76.

The apparent deficit produced by these acts, and by the application of more than $2,500,000 to the payment of the interest and redemption of the principal of the public debt, beyond the annual appropriation of $10,000,000 for that object, has been supplied by the receipts into the Treasury on account of the arrearage of the direct tax and internal duties, and by the balance of more than $6,000,000, which was in the Treasury on the first day of January, 1818.

These temporary sources of supply being nearly exhausted, the expenditure of the year 1819 must principally depend upon the receipts into the Treasury from the permanent revenue during that year. As was anticipated in the last annual report, the reaction produced by the excessive importations of foreign merchandise, during the years 1815 and 1816, acquired its greatest force in the year 1817.

It is presumed that the revenue which shall accrue during the present year from imports and tonnage, may be considered as the average amount which will be annually received from that source of the revenue.

It is ascertained that the bonds taken for securing duties which were outstanding on the 30th day of September last, exceeded $23,000,000, and the receipts into the Treasury from that source of revenue during the year 1819, are estimated at - - - - - $21,000,000 00

Public lands - - - -	1,500,000 00
Direct tax and internal duties -	750,000 00
Bank dividends at six per cent. -	420,000 00
First payment of bonus due by Bank of the United States -	500,000 00
Postage and incidental receipts -	50,000 00
Amounting together to -	$24,220,000 00
Which, added to balance in the Treasury on the first day of January, 1819, estimated at -	2,112,408 59
Makes the aggregate amount of	$26,232,408 59

In presenting this estimate of receipts for the year 1819, it is necessary to premise that the sum to be received from the customs is less than what, from the amount of the outstanding bonds, would under ordinary circumstances be received. The amount of the sales of public lands during the last year, and the sum due at this time by the purchasers, would justify a much higher estimate of the receipts from that important branch of revenue, if the most serious difficulty in making payments was not known to exist. The excessive issues of the banks during the suspension of specie payments, and the great exportation of the precious metals to the East Indies during the present year, have produced a pressure upon them which has rendered it necessary to contract their discounts for the purpose of withdrawing from circulation a large proportion of their notes. This operation, so oppressive to their debtors, but indispensably necessary to the existence of specie payments must be continued until gold and silver shall form a just proportion of the circulating currency. In passing through this ordeal, punctuality in the discharge of debts, both to individuals and to the Government, will be considerably impaired, and well-founded apprehensions are entertained that, until it is passed, payments in some of the land districts will be greatly diminished.

The extent to which the payments into the Treasury, during the year 1819, will be affected by the general pressure upon the community, which has been described, and which is the inevitable consequence of the overtrading of the banks and the exportation of specie to the East Indies, aggravated by the temporary failure of the ordinary supply of the precious metals from the Spanish American mines, cannot, at this time, be correctly appreciated. Should it exceed what has been contemplated in this report, the appropriations must be diminished, the revenue enlarged by new impositions, or temporary loans authorized to meet the deficiency. As the expenditure of the year 1820 will be greatly reduced by the irredeemable quality of the public debt, after the redemption of the remaining moiety of the Louisiana stock, which may be effected on the 21st day of October, 1819, a resort to temporary loans, or to the issue of Treasury notes, to the amount of the deficiency, should any occur, is believed to be preferable to the imposition of new taxes, which would not be required after that year.

All which is respectfully submitted.

WM. H. CRAWFORD.

State of Illinois—Slavery.

The engrossed resolution declaring the admission of the State of Illinois into the Union, on an equal footing with the original States, was read a third time; and on the question, "Shall it pass?"

Mr. TALLMADGE, of New York, assigned the reasons why, in his opinion, the resolution ought not to be adopted. It appeared to him, in the first place, he said, there ought to be before Congress some document, showing that the Territory had the population required by the law of last session. The recitation of the fact in the preamble of the constitution he did not consider as the proper sort of evidence. It was not, however, upon this point that he meant to rest his opposition to the adoption of the resolution. The principle of slavery, if not adopted in the constitution, was at least not sufficiently prohibited. The ordinance for the government of the territory northwest of the Ohio, which was in the nature of a convention between the United States and the people of the States and Territories to be formed out of that territory, contained some provisions applicable to this subject. The sixth article of that ordinance provided that, in the cession of territory accepted by the United States from Virginia, and comprising the whole north-western territory, there should be neither slavery nor involuntary servitude, otherwise than as a punishment for the commitment of crimes; with a proviso, that this provision should not be construed to prevent the reclamation of runaway slaves. If the constitution was found to comport with that provision, it ought to be received by Congress;

if not, it ought to be rejected. The sixth article of the constitution of the new State of Illinois,* in each of its three sections, Mr. T. contended, contravened this stipulation, either in the letter or the spirit. These sections he separately examined, as to their construction and bearing, and felt himself constrained to come to the conclusion that they embraced a complete recognition of existing slavery, if not provisions for its future introduction and toleration; particularly in the passage wherein they permit the hiring of slaves, the property of non-residents, for any number of years consecutively. If Congress would observe in good faith the terms of the convention, he said, they were bound, under this circumstance, to reject the constitution of Illinois, or at least this feature of it. The State of Virginia, he said, had ceded the territory out of which this State was formed, on certain conditions, to the United States; one of which was that to which he had just adverted, and it was a monument to the fame of Virginia. It had often been cast as a reproach on this nation, that we, who boast our freedom, and pride ourselves on our independence, yet hold our fellow-beings in service. Americans had been represented, indeed, with one hand exhibiting the declaration of independence, and with the other brandishing the lash of despotism. When this stigma was attempted to be fixed on our country, it was a consolation to him, he said, that we have it in our power to cast it back again on the country from which we are severed—hers was the original sin, which we found in existence on our emancipation, and which it had been impossible to eradicate—we could do no more than control and regulate the evil. So far from wishing to invade the rights of the slaveholding States, or to assail their prerogatives, he believed they were equally sensible with him of the evils of slavery, and did what they could to control and regulate them. But, Mr. T. said, if Congress should voluntarily recognize this feature in a constitution submitted for their decision, and in violation, too, of a compact forbidding it, they would take upon themselves the unjust imputation he had alluded to. Mr. T. referred to the constitution of the State of Indiana, a State already admitted from the same territory, to show how carefully and scrupulously it had guarded against slavery in any shape, and in the strongest terms reprobated it; and lest at some future day amendments to the constitution should admit its introduction, a clause of that constitution forbade any amendment of that sort to be made. These sentiments of the State of Indiana, Mr. T. said, he reciprocated. Our interest and our honor, said he, calls on us rigidly to insist on the observance of good faith under the article of the ordinance I have referred to, so far as that no involuntary service be permitted to be recognized in the constitution of any State to be formed out of that territory.

Mr. POINDEXTER, of Mississippi, said he fully concurred with the gentleman from New York, in his solicitude to expel from our country, when ever practicable, any thing like slavery. It is not with us, said he, a matter of choice whether we will have slaves among us or not: we found them here, and we are obliged to maintain and employ them. It would be a blessing could we get rid of them; but the wisest and best men among us have not been able to devise a plan for doing it. The only question at present is whether the State of Illinois has virtually complied with her contract, and followed the example of the two other States already erected from the same territory. To illustrate that fact, Mr. P. referred to the constitution of Ohio, the erection of which State, from the Northwestern Territory, the gentleman appeared to have overlooked; and showed that the article on the subject of slaves was almost literally copied from the constitution of Ohio into that of Illinois. The third section of the article in question, in the latter, was the only variation, and the necessity of that additional provision would be obvious to any gentleman who would examine and reflect upon the subject. By an antecedent law of the territorial government, all persons, slaves or under indenture, in the territory, were required to be registered, as the only way in which they could be discriminated from fugitives, &c. The constitution directs that their children also shall be registered, that they may be secure of enjoying their freedom, when by the constitution they become entitled. From their color, (being *prima facie* slaves in other States,) was it not more secure to the freedom of the people of color, that their births, parentage, &c., should be recorded in the new State, than otherwise? So far from constituting an objection to it, Mr. P. said, he considered this a valuable part of the constitution of Illinois. As to children, born of slaves, not being free until eighteen or

* ART. 6. Neither slavery nor involuntary servitude shall hereafter be introduced into this State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted; nor shall any male person, arrived at the age of twenty-one years, nor female person arrived at the age of eighteen years, be held to serve any person as a servant, under any indenture hereafter made, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a *bona fide* consideration received, or to be received, for that service. Nor shall any indenture of any negro or mulatto, hereafter made and executed out of this State, or, if made in this State, where the term of service exceeds one year, be of the least validity, except those given in cases of apprenticeship.

SEC. 2. No person bound to labor in any other State shall be hired to labor in this State, except within the tract reserved for the salt works, near Shawneetown; nor even at that place for a longer period than one year at any one time; nor shall it be allowed there after the year one thousand eight hundred and twenty-five; any violation of this article shall effect the emancipation of such person from his obligation to service.

SEC. 3. Each and every person who has been bound to service by contract or indenture, in virtue of the laws of the Illinois Territory, heretofore existing, and in conformity to the provisions of the same, without fraud or collusion, shall be held to a specific performance of their contracts or indentures; and such negroes and mulattoes as have been registered in conformity with the aforesaid laws, shall serve out the time appointed by said laws: *Provided, however*, That the children hereafter born of such persons, negroes, or mulattoes, shall become free, the males at the age of twenty-one years, the females at the age of eighteen years. Each and every child born of indentured parents shall be entered with the clerk of the county in which they reside, by their owners, within six months after the birth of said child.—*Constitution of Illinois.*

twenty-one years of age, Mr. P. said that would be no great hardship, seeing it was as soon as white persons were free from their parents, or from their indentures, if apprenticed. With respect to constitutional provisions on this subject, Mr. P. said, after all, it would be found impracticable, after admitting the independence of a State, to prevent it from framing or shaping its constitution as it thought proper. As to a constitution like that of Indiana, prohibiting the introduction of an amendment to it, of whatever nature, if the people were to form a convention to-morrow, that provision would be of no force: the whole power would be with the people, whom, in their sovereign capacity, no provision of that nature can control. Nor could Congress prevent them. Various attempts had already been made in Ohio to alter that feature. In the nature of free governments, no law could be irrepealable; though on this head he observed, he hoped that neither Ohio, Indiana, nor Illinois would ever permit the introduction of slavery within their limits. He hoped, as far as we could, we should expel slavery from the country. At the same time, he thought that Illinois, so far as she had gone, had done better than the States which had preceded her in the same quarter, because she had provided for the security of the freedom of negroes, mulattoes, &c., and to prevent them from being kidnapped, by causing them to be registered.

Mr. ANDERSON, of Kentucky, repeated what he had said on Friday last, respecting the population of Illinois, and his own conviction that it was of the required amount. If on this subject Congress had been very scrupulous, Mr. A. said, he would have directed a census of the population to be taken by persons appointed by the United States for that purpose; but they had always heretofore in like cases submitted to Territorial counts and Territorial results, and he did not see why they should not do the same in the present case. All that was necessary was that they should be reasonably satisfied of their accuracy. With respect to the other objection of the gentleman, he thought he could satisfy him that his position was manifestly incorrect. It would be seen, on reading the articles of cession by Virginia, that no condition, such as the gentleman supposed, was annexed to it, respecting slavery. The conditions she required were of a different character, and this provision respecting slavery had been prescribed by Congress, among other articles framed for the government of the Territory thus ceded. Virginia had no concern in it, except so far as she was represented on the floor of Congress, when the ordinance was passed. Still less were the people of the Northwestern Territory a party to the compact, as the gentleman supposed it, not being represented at all, nor consulted on the occasion. Congress then are not in this respect bound by any pledge, nor by any thing but a sense of expediency, co-operating with the like sense of the people of Illinois. The conditions reserved by Virginia on making the cession were that a certain number of States should be erected from the Territory, and all existing rights of the people preserved; and, Mr. A. said, there were slaves in the Territory at that day. So far from Virginia requiring the abolition of slavery, doubts had arisen whether, under the stipulations she made on ceding the Territory to the United States, Congress should pass the ordinance which they subsequently enacted. Serious doubts had arisen, after stipulating to make three States, whether Congress had a right to prescribe any condition respecting slavery, &c.; not, Mr. A. said, that he would destroy the ordinance, but he meant to state only how far its scope extended. There was nothing unconstitutional, in any view, in Congress accepting what the people of Illinois have done, if they thought proper; since the consent of the two contracting parties (supposing the ordinance to be a compact) would thus be given. With respect to the nature of the provisions referred to in the constitution, the gentleman who preceded him had clearly shown that they had been misunderstood by the gentleman from New York.

Mr. TALLMADGE replied.—In referring to the ordinance, as binding Congress not to permit slavery, in any of the States formed from the Northwestern Territory, he conceived Congress to be bound by a tie not to be broken: but, if in this he was wrong, and Congress are bound by nothing but their sense of expediency, that tie became ten thousand times more strong. Are we, said he, to be drawn into a discussion of slavery, its merits and demerits, on abstract principles? He would not enter into such a discussion; but must persist in stating it as his opinion, that the interest, honor, and faith of the nation, required it scrupulously to guard against slavery's passing into a territory where they have power to prevent its entrance. Mr. T. again enumerated the provisions in the constitution of Illinois, to which he objected, and made further remarks on them. He considered it such, that to accept it, would be to violate a pledge solemnly given, and, if not a stipulation, yet, so simultaneously given, as to amount to a compact with Virginia. With respect to the power of a State to change its constitution, he was not prepared to say that a State was, in that respect, under no restraint. Would gentlemen admit a State into the Union to-day under a republican form of government, and permit it to call a convention to-morrow, and change its form of government to a monarchy? That State would cease, by the very act, to be a component part of the Union, and the same result would follow, he presumed, if a State were to violate the condition on which it was admitted into this Union, by admitting the introduction of slavery.

Mr. LIVERMORE requested the yeas and nays on the decision of this question.

Mr. HARRISON said, that, as a Representative of Ohio, he protested against the doctrine of the gentleman from New York. He could assure

the gentleman that the people of that State were fully aware of their privileges, and would never come to this House, or to the State of New York, for permission so to alter their constitution as to admit the introduction of slavery, the object of the gentleman's abhorrence, as, said Mr. H., it is of mine. They had entered into no compact which had shorn the people of their sovereign authority. Mr. H. proceeded to make some remarks respecting the operation of the ordinance, cessions, &c. Though there were slaves in that country when ceded, there had been none in that part of it from which the State of Ohio had been formed, so that no provision had been necessary respecting them in the constitution of that State. In Indiana, the question relating to this description of property had been reserved for the decision of the courts of justice, &c., and he sincerely wished that Illinois had either emancipated its slaves or followed the example of Indiana. In regard to the supposed compact, however, and its efficacy, Mr. H. said, he had always considered it a dead letter. He could not put his hand on the page, or on the letter, but he believed it would be found that, in one of the pages of the Federalist, the authority of which he presumed, at least, the gentleman from New York would respect, Alexander Hamilton had expressly declared the same opinion. He could not believe, he said, that Congress would refuse to accept the State of Illinois on the ground of that compact: for his part, he wished to see that State, and all that Territory, disenthralled from the effect of articles to which they never gave their assent, and to which they were not properly subject. This much he wished, however he was opposed to slavery, and should lament its introduction into any part of the Territory.

After a few further remarks, from Mr. TALLMADGE, Mr. ANDERSON, and Mr. STORRS, the question on the passage of the resolution was decided in the affirmative—yeas 117, nays 34, as follows:

YEAS.—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Austin, Baldwin, Barbour of Virginia, Bateman, Bayley, Beecher, Bellinger, Bloomfield, Blount, Boden, Bryan, Burwell, Butler of New York, Butler of Louisiana, Campbell, Claiborne, Cobb, Colston, Cook, Crawford, Cruger, Culbreth, Cushman, Desha, Drake, Edwards, Ervin of South Carolina, Floyd, Garnett, Hall of North Carolina, Harrison, Hendricks, Herbert, Hogg, Holmes, Hopkinson, Hostetter, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Lewis, Lincoln, Linn, Little, McLane of Delaware, McCoy, Marchand, Mason of Massachusetts, Mercer, Middleton, Robert, Moore, Samuel Moore, Mosely, Mumford, H. Nelson, T. M. Nelson, New, Newton, Ogden, Ogle, Owen, Palmer, Patterson, Pegram, Peter, Pindall, Pitkin, Pleasants, Poindexter, Porter, Quarles, Rhea, Rice, Robertson, Rogers, Ruggles, Sampson, Sawyer, Schuyler, Scudder, Settle, Shaw, Sherwood, Silsbee, Simkins, Slocumb, S. Smith, Ballard Smith, Alexander Smith, J. S. Smith, Speed, Spencer, Stewart of North Carolina, Storrs, Stuart of Maryland, Tarr, Terrell, Terry, Tompkins, Trimble, Tucker of South Carolina, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, Williams of North Carolina—117.

NAYS.—Messrs. Adams, Bennett, Boss, Clagett, Crafts, Darlington, Ellicott, Folger, Gage, Gilbert, Hale, Hasbrouck, Hunter, Huntington, Livermore, Wm. Maclay, Wm. P. Maclay, Merrill, Morton, Murray, Jeremiah Nelson, Orr, Reed, Rich, Richards, Savage, Seybert, Southard, Tallmadge, Taylor, Wendover, Whitman, Wilson of Massachusetts, and Wilson of Pennsylvania—34.

The resolution was passed, and sent to the Senate for concurrence.

TUESDAY, November 24.

Another member, to wit, from Massachusetts, SAMUEL C. ALLEN, appeared, and took his seat.

WEDNESDAY, November 25.

Several other members, to wit: from Virginia, JOHN TYLER, JAMES JOHNSON, and GEORGE F. STROTHER; and, from South Carolina, WILLIAM LOWNDES, appeared, and took their seats.

Bank of the United States.

Mr. SPENCER, of New York, offered for consideration the following resolution:

Resolved, That a committee be appointed to inspect the books and examine into the proceedings of the Bank of the United States, and to report whether the provisions of its charter have been violated or not; and particularly to report whether the instalments of the capital stock of the said bank have been paid in gold or silver coin, and in the funded debt of the United States, or whether they were, in any instance, and to what amount, paid by the proceeds of the notes of stockholders, discounted for that purpose; and also to report the names of those persons who now own, or who have owned, any part of the capital stock of the said bank, and the amount of discounts, if any, to such persons respectively, and when made; and also to report whether the said bank, or any of its offices of discount and deposit, have refused to pay the notes of the bank in specie on demand, and have refused to receive in payment of debts due to them, or either of them, the notes of the bank, and whether the bank or any of its offices of discount, or any of their officers or agents have sold drafts upon other offices, or upon the bank, at an advance, and have received a premium for such drafts; also, the amount of the notes issued payable at Philadelphia, and at each office of discount respectively, and the amount of capital assigned to each office, together with the amount of the public deposits made at the bank and at each office, and an account of the transfers thereof, and the total amount of bills and notes discounted at the bank and its several offices since its organization; that the said committee have leave to meet in the city of Philadelphia, and to remain there as long as may be necessary; that they shall have power to send for persons and papers, and to employ the requisite clerks, the expense of which shall be audited and allowed by the Committee of Accounts, and paid out of the contingent fund of this House.

Mr. SPENCER remarked, on introducing this motion, that it was with considerable reluctance he had submitted it to the House—a reluctance,

however, proceeding solely from his inability to do justice to the subject, and not from any doubt of the necessity or of the propriety of the proceeding. He had waited till this day, in the hope that some member, whose experience was more extensive than his own, would have moved the inquiry; but, having been in this respect disappointed, he had felt it his imperious duty to do it. As to the authority of this House to make the investigation, he thought there could be little doubt. If there should be any doubt on the mind of any gentleman on this subject, he referred him to the 23d section of the act establishing the bank, which expressly authorized an examination of the books of the bank when required, by a committee of Congress. As to the necessity of the inquiry proposed, he presumed there were few of those near him who were not aware of the agitation which exists in the public mind on this subject, and who did not perceive that, from one end of the country to the other, loud complaints were made against the conduct of the officers of the bank. It was necessary for him to state, Mr. S. said, as he did explicitly state, that he meant to implicate the conduct of the bank in no respect; on that point he had formed no opinion, and would form none, until the facts reported by the committee should justify him in drawing his conclusions on the subject. He was neither hostile to the bank, nor particularly friendly; he owed nothing to it; he was the proprietor of none of its stock, nor, that he knew of, were any of his friends. But, that complaints existed against the bank, he well knew; and, whether well or ill-founded, it was equally due to the nation and to the bank that a fair inquiry should take place, and such a report be made as would show that the complaints were unjust, if such should prove to be the fact, or, if otherwise, should exhibit the specific instances of misconduct which the committee should be able to discover. The objects specified in the resolve, Mr. S. said, were all those respecting which, to his knowledge, complaints had been made; and they were subjects respecting which it was at least certain that the nation required information. The friends of the bank, he thought, ought to solicit the inquiry proposed; they should be anxious that a full investigation should take place, and that, too, by a committee having no resentments against the bank to gratify, nor any feelings of friendship or attachment to bias them against it—by a committee, depending on their own inspection for facts, and not on information of a general nature derived from the officers of the bank. A full and fair view of the whole subject, thus obtained, would be attended with the most happy consequences to the nation and to the bank. If it should be shown that immense discounts had not been made to particular persons, for the purpose of speculation merely; that, by this means, the stock of the bank had not been blown up into a bubble which had now burst; that the bank had distributed its accommodations with a view to the accommodation of the community rather than of individuals; that it had used its best exertions to accomplish, what was one of the objects of its establishment, the equalization of the currency, as far as practicable; if it had done all this, and fairly endeavored to meet the public expectations, although it may have failed in that object, it would become an act of justice to rally around the institution, to sustain and give it credit, because no one could doubt the utility of such an institution to the nation, if properly conducted. With these observations, Mr. S. submitted the resolution to the will of the House.

Mr. MCLANE, of Delaware, rose, he said, not to offer any opposition to the inquiry, but merely to request time to give to the subject of the resolution such a consideration as its importance deserved. It would be recollected by the House, that a resolution had passed the Senate during the last session, calling on the Secretary of the Treasury to lay before Congress a particular account of the state and transactions of the bank. This report might be expected shortly to be laid before Congress; and in that report would, perhaps, be embraced all the information required by the resolve. Although rumors had existed, Mr. McL. said, with regard to certain transactions in the bank, he thought it would be well not to institute an inquiry hastily on the foundation of mere rumor. He wished the resolution to lie on the table for a day, or for a longer time, that the House might have time to reflect on it. He, therefore, moved that it lie on the table, and be printed.

Mr. SPENCER said he had no sort of objection to this course; but he hoped that, after gentlemen should have reflected on it, they would be disposed to take it up and act on it at an early day.

THURSDAY, November 26.

Another member, to wit, from Ohio, SAMUEL HERRICK, appeared, and took his seat.

Claim of Beaumarchais.

The House then resolved itself into a Committee of the Whole, Mr. SMITH of Maryland in the chair, on the bill for the relief of the heirs and representatives of Caron de Beaumarchais.

[The magnitude of this claim makes it an important one, and the long interval of time which has elapsed since the debt was contracted, has at once trippled the amount of the debt, and involved in some obscurity the question of the justice of the claim. In the report of the committee to whom the subject was referred at the last session, and on which this bill is founded, the members of the committee were unanimous. This report, which is an elaborate and able one, was read through to-day by the Clerk. A report of a committee of a former Congress, adverse to the claim, and equally elaborate, was also read through.]

After the reading of these documents—

Mr. BASSETT made a few remarks on the merits of this claim, impressively urging on the House the justice of giving to the claim a liberal and serious consideration. He stated the important services rendered to the United States by M. Beaumarchais, and the reduced fortunes of his heirs. After reading the warm expression of thanks to that gentleman by the Continental Congress, and stating that his aid had essentially contributed to some of the most important and successful events of the Revolutionary war, Mr. B. expressed his hope that the door would not be closed in the face of his representatives, suing for a debt justly due by the United States, and the want of which had impoverished them.

Mr. PITKIN said that this claim was of that nature, and of that amount, too, which required a cool consideration of its nature; and that the House should closely examine into its merits for themselves. With regard to this claim, some of the documents unfavorable to it had been destroyed at the time of the invasion of 1814; others were not generally accessible, or not generally understood. As gentlemen could not have had time to look over the papers at the present session, and it was, withal, growing late, he moved that the committee should rise, that, on meeting again, gentlemen might be better prepared than at present to go into a consideration of the question.

Whereupon the committee rose, and obtained leave to sit again.

FRIDAY, November 27.

Another member, to wit, from Virginia, WILLIAM LEE BALL, appeared, and took his seat.

Claim of Beaumarchais.

The House then again resolved itself into a Committee of the Whole on the bill for the relief of the heirs of Caron de Beaumarchais.

Mr. PITKIN, of Connecticut, opened the debate, in opposition to the bill, in a speech which occupied in the delivery the whole of the day's sitting. In the outset, he remarked on the importance of the subject in hand; the interest it had excited, and the feeling it had produced in the old Congress, as well as under the present Government, whenever it had presented itself for consideration. During the existence of the war of the Revolution, some of the documents relating to it had miscarried, and some had been stolen in their transmission; others had been since destroyed by fire, or overlooked in the mass of public papers. Hence the claim had been involved in much mystery, requiring close investigation to unravel it. Mr. P. then proceeded to the examination of the subject, as it had been viewed by the Commissioners of the United States at Paris, by the French Government, and by the claimants. In the course of his argument, he read extracts from letters of Arthur Lee, Benjamin Franklin, and Silas Deane; from the American and French diplomatic volumes; from Gordon's history, and from various other sources. From all these documents, and connecting all the facts disclosed by them together, Mr. P. thought the conclusion irresistible, that the supplies furnished by Caron de Beaumarchais had been a gratuitous aid by the Government of France, and not a private transaction of Beaumarchais. The French Government, which had always disclaimed all expectation of repayment of the aid thus afforded, under the critical circumstances in which it was then placed, Mr. P. contended, had availed itself of the cover of a mercantile transaction, and of the agency of Beaumarchais as the ostensible shipper of supplies; that it had done so, the public disavowal of any agency in this matter was no proof to the contrary, being a part of the policy of concealment which dictated the employment of mercantile agency in the first instance. This claim, therefore, Mr. P. considered as wholly unsustained, and founded on an attempt on the part of Beaumarchais to aggrandize himself and family, by taking advantage of the secret agency in which his name had been employed, and that of the Government and its officers wholly concealed, to claim remuneration from the United States for the supplies sent, as if the matter had been a speculation of his own.

After Mr. P. had concluded his remarks, the committee rose, and obtained leave to sit again.

MONDAY, November 30.

Two other members, to wit: JAMES B. MASON, from Rhode Island, and JOEL ABBOTT, from Georgia, appeared, and took their seats.

Bank of the United States.

The House having agreed now to proceed to the consideration of the resolution moved by Mr. SPENCER, of New York, a few days ago,

Mr. MCLANE, of Delaware, said, he had no objection to the object of the proposed inquiry, though he had some objection to the form given to it. He thought it contemplated a wider scope of inquiry than was within the power of Congress. He referred to the act incorporating the bank, and quoted so much of it as reserved to Congress the power to appoint a committee to examine its books, &c., for the purpose of ascertaining whether or not the bank has violated its charter. He drew a distinction between this power and that of appointing a committee to inspect the books and proceedings of the bank, for the purpose of reporting to this House and publishing to all the world all its transactions, of whatever nature. The specification of the objects of inquiry was so little necessary to the main object of the resolution, that it would lose nothing of its effect by striking them all out. The inquiry into the amount of discounts to a particular class of individuals, for example, he considered as exceptionable. The right of lending money is vested in the

bank, at its discretion, to whomsoever it shall choose. If it have even exercised that power indiscreetly, it is immaterial to this House, with reference to a violation of its charter, (the object of inquiry,) to whom discounts have been made. If the House went so far as was proposed in this respect, it should go further. It should authorize a report to be made of the names of all those who have applied for discounts at the bank, and been refused; and also an inquiry into the character and solvency of all those persons, in order to make that branch of the inquiry effectual. The necessary powers in this respect, Mr. McL. said, the committee of this House would have, under the charter, without a specification of the objects of inquiry; if the committee had not, under the charter, the powers proposed to be given to it, the specification would not confer them. Since, then, the specification was unnecessary, and the resolution, divested of it, would answer every object the gentleman had in view, Mr. McL. moved to amend the resolution, by striking out all that part of it after the words "violated or not," near the beginning, to the word "organization," near the end of it, inclusive. This would leave the inquiry as broad and comprehensive as the nature of the subject would permit, and would divest the resolve of its objectionable features.

Mr. SPENCER opposed the amendment moved by Mr. McLANE. As to the powers of the House, the language of the resolution was that of the charter, respecting the power of inquiry reserved to Congress. The gentleman seemed to suppose that a committee of Congress, appointed for the purpose, might report whether the charter was violated or not, but were not at liberty to report the facts on which that opinion was founded. But, Mr. S. said, when a power is given, the means of carrying that power into execution are also given. If the power were given to inquire whether the charter of the bank had been violated or not, it irresistibly followed, that the power was also given to report the facts which had led to that conclusion. But the gentleman objected, that such a report would involve the exposure of private accounts. Mr. S. said he thought he had not examined the resolution with his usual attention; if he would read it again, he would find that no private account whatever was proposed to be examined, except the accounts of the stockholders, so far as to the amount of discounts which they may have received. No inquiry was proposed as to the balance of private individuals' accounts; none as to their deposits; none as to the amount of the debts which they may now owe to the bank, but the aggregate amount of discounts to the individual stockholders since the commencement of the operations of the bank. The resolution does not imply that the stockholders were not justly entitled to the accommodation they have received, nor does it question their solvency; but the particular inquiry objected to is essential, said Mr. S., to enable us to make up our minds whether the bank has acted correctly or not. The object of the resolution, Mr. S. went on to say, did not appear to be precisely understood, perhaps owing to his own neglect not more carefully to explain it. Its object was twofold; to inquire, first, whether there had been a violation of the charter or not; and, secondly, whether improper discounts had not been made to stockholders, &c. The mode of violation of the charter being pointed out in that instrument, needed no more precise definition than that contained in the first clause of the resolve. Then followed, however, in the resolution, other objects of inquiry, regarding the particular instances of alleged misconduct to which the attention of the public has been directed. To accomplish this object another power had been given, to send for persons and papers. It did not follow, because the committee was to report on these particular instances, that the committee was to derive its information from the books of the bank alone. There were other means at their disposal; they might examine papers not belonging to the bank, and persons having personal knowledge of its transactions. An objection had been raised, as he had understood, and to which (though not yet urged in this House) he would advert, that this specification of particular points of inquiry appeared to contain a censure upon the bank, or on the conduct of its officers. It was not so intended, Mr. S. said, nor did he think such an inference could be fairly drawn from the words of the resolve. It embraced some points of inquiry involving no misconduct in their result—that, for example, respecting the refusal of the bank to pay specie for the notes of its branches, &c. There were few who would say that that measure was an evidence of misconduct on the part of the bank, much less that it was a violation of its charter; because such a measure may have been necessary and unavoidable in the present state of the money concerns of the country. The resolution was not intended to convey charges against the bank, but to embrace all the topics respecting which the public mind had been agitated, and to obtain a report thereon from a respectable committee of this House. As to the facts which rendered such an inquiry necessary, it had been suggested that mere general rumor was not a sufficient foundation for this House to act upon. Mr. S. said, he had meant to be understood as having introduced this resolution, not under the influence of general rumor merely, but, as he now stated, he had individual information which left him no doubt of the truth of most of the allegations which he had heard on this subject. With respect to the fact of the payment of the second instalment by discounts to the stockholders, the letter of Mr. Lloyd to a committee of this House, and now on its files, established that fact; and from the circular letters of the cashiers of the bank and its branches, published for information in the public prints, he had evidence of the

refusal to pay the notes of the bank or its branches, except where issued. There seemed, therefore, to be sufficient information to authorize an inquiry—sufficient, at least, to induce a belief that there was something to excite the agitation which all knew to exist in the public mind. It had, indeed, appeared to him to be due from him to the House, to state what charges he had heard against the bank, and what were the objects to which he was led to direct the inquiries of the committee. It had appeared to him proper, also, to let the bank and the community know to what objects the inquiry was pointed. He could see no harm from the specific designation of the objects of the inquiry; but, on the contrary, he said, good might be anticipated, for the reasons already stated. With these views he could not assent to the modification proposed, and should feel it to be his duty to vote against it.

Mr. LOWNDES, of South Carolina, commenced his remarks in favor of the proposed amendment, by saying that he should not vote for it from any apprehension of defect of power in the House to prosecute the inquiry in the terms proposed. He had no doubt of the power of the House, if the public interest required it, to direct a committee to make such a report. He decidedly objected, however, to the specifications proposed to be stricken out, on the ground that, if retained, the inference would follow, that certain allegations were therein embraced, the truth of which being confirmed by inquiry, the censure of Congress if not the penalty due to a violation of the charter, would follow of course. If a committee should be directed to inquire whether the bank has violated its charter, and, particularly, whether it has paid its instalments by discounts, &c., the impression would be made on the mind of every man that the committee had nothing to do but to ascertain these facts, to prove the charter of the bank to have been violated. It did not comport with justice, nor, Mr. L. thought, with the dignity of the House; in a case, too, where the gentleman himself knew the principles involved to be susceptible of much argument and discussion for and against them, to force the public mind, as it were, to the conclusion that, certain facts being proved, the charter of the bank will be proved to have been violated. Therefore, he was in favor of excluding the specifications: with regard to the objects of them, he had no objection whatever to an inquiry on those and all others that might be suggested. The nation, said he, has a deep interest in the conduct and management of the bank; our duty to the people whom we represent, the national interest as owners of a large portion of the stock, its interest in the revenues being wholly payable in the notes of that bank, will justify us in a constant and vigilant attention to its proceedings. If there had been a doubt whether the conduct of the bank had been proper or not, Mr. L. said, the House was fully justified in investigating into the facts, and inquiring whether abuses had been committed or not. Such an investigation he considered at present not only interesting to the public, but necessary to the bank. Many imputations had been thrown on the bank, the result of disappointed expectations, where the expectations themselves had been unreasonable; and it was the interest of the bank that a full inquiry should take place. Recurring to the observation of the effect the specifications in the resolution would have on the public mind, Mr. L. said, while he would therefore exclude them, at the same time voting for any inquiry in its broadest shape, he would remind gentlemen of some circumstances connected with the contents of the resolve. The mover of it had himself referred to a report made by a committee of this House appointed to inquire into the subject of the payment of the second instalment on the stock of the bank by discounts—a report made at a time when, if that course had been wrong, it was in the power of Congress to have prevented it. The fact of a general regulation having been adopted for discounting notes for payment of the second instalment, was acknowledged to the committee, who yet reported to this House a recommendation that the committee be discharged from the further consideration of the subject.

Mr. L. said he would not now enter into an investigation of the conduct of the bank on that occasion; his impression at the time had been, that the arrangement was beneficial to the community, by facilitating and expediting the organization of the bank, &c.; but that it was an imprudent one, on the part of the directors of that institution, whose object it should be to adhere to the very line of their duty, as pointed out by the charter. The point, however, to which he desired to call the attention of the House, was, that when the corrective and remedy were in their hands, if the act was wrong, a committee having been instructed to inquire into it, and having reported the fact, the House had not thought proper to interfere at all in the business. Under these circumstances, said he, it would be harsh indeed, at this late hour, availing ourselves of the new lights which experience has afforded us, to censure the bank for having done that to which, at the time, we tacitly consented. A distinction, of course, must be drawn between the second and third instalments, in regard to the mode of payment; the payment of the latter by notes, discounted for that purpose, every body anticipated. The bank was then in full operation, discounting all good paper offered to it, and could not be expected to pass a law of exclusion in regard to its own stockholders, who had as fair a claim at least as others to accommodation; indeed, there never perhaps had gone a bank into operation in which the same thing had not occurred; it was therefore expected of the Bank of the United States in regard to the third instalment on its stock, and could not be considered as forming a ground of complaint against

it. Another specific object of the inquiry was, whether the bank or its branches had sold drafts and received a premium thereon. The gentleman from New York had stated, with great candor, as he understood him, that he did not consider it an imputation on the bank that it had refused to pay specie for its notes at any other branch than that from which they issued; and that he therefore did not mean to contend that the bank ought to have made its paper and that of its branches payable indifferently at the bank or at any and all of its branches. Connected very closely with this subject, Mr. L. said, was the practice of selling drafts on distant banks for a premium. He knew, he said, that much of the disapprobation of the conduct of the bank proceeded from the disappointment of an expectation that it would emit and sustain a currency which should be of equal value throughout the Union; and, it might be of some importance, as many of the members of the present Congress were not members of the last, to advert to circumstances which proved that the expectation referred to was never entertained in this House at the time the bank was incorporated. The Congress which preceded that by which the bank was established, Mr. L. said, had had under its consideration a bill for establishing a bank, one clause of which did provide that the bank and all its branches should be obliged to pay the notes of each other; by which means, if practicable, the paper of all would have been everywhere of an equal value. That clause, however, was not inserted in the bill which actually passed. If there were no other, this would be sufficient proof, from the records of the House, that it was not expected that a currency that should be everywhere of equal value would be established. But, further: in the act of incorporating the bank, there is a provision that the bank shall charge nothing to the Government for difference of exchange. Was this not, Mr. L. asked, positive proof that it was expected that the bank would charge in some cases the difference of exchange? Was it not proof that it was the expectation of the framers of the law that the present state of things would result? He would not enter at all into the general question whether it would or would not be possible for the Bank of the United States to equalize, without great loss, the exchange between different sections of the country, if by their charter they were bound to do so. If it were practicable, it would be even now their interest to do it; but, Mr. L. said, he believed it would be wholly impracticable. The question was not, however, whether it was possible for the United States to effect it, whether it would be beneficial to the country or to the institution, but whether the bank was bound to effect the object. The exclusion of the clause having this object, after it had been included in a like bill before Congress, at the preceding session, and, in addition, the express exception of the Government from all charge for difference of exchange, showed that it was not expected of the bank. If, however, he were to go into the discussion of the practicability of establishing a circulating medium of equal value in every part of the country, it would appear not only that in the reason of the thing it was not practicable, but experience also would show that in a large empire it is visionary to look for it. Even in England, as gentlemen well knew, when the bank paid in specie, the value of a bank note in different parts of the country was not the same. There was a settled rate of exchange between Edinburgh and London, and between all the important towns in Great Britain; and the Bank of England, with every advantage, improved by a hundred years of experience, had never been able to accomplish that object. The inquiry, however, was not whether the object was practicable or possible, but whether the bank was bound to effect it; and he had shown that it was not. Objections of a similar nature might be urged to most of the specifications in the resolve; but it was sufficient to say that, if necessary, the committee, under the general terms of inquiry, would feel themselves at liberty to inquire and report on any of the points in question; that no additional power could be conferred on the committee by descending to particulars; and that to retain the specification might produce an impression that the House had determined certain facts, if proved to be conclusive against the bank, whilst the House had, in fact, expressed no opinion upon them. There was another objection, of a different kind, to the terms of the resolve as it now stood: that it specified certain objects, to which it in a manner thus limited the proposed inquiry, whilst, in his opinion, there were many facts not referred to, equally if not more important to the bank, and to the public interests, than those which were. Without justifying or censuring the conduct of the bank, without expressing, in a parenthesis, or by inuendo, an opinion unfavorable to it, Mr. L. said he thought it would be proper to institute a committee of inquiry, and leave them, on their own responsibility, to settle the principles on which they should proceed in it, and to report accordingly. He was in favor of leaving the committee wholly unfettered, except by their own opinion of what was required by the public good; and therefore hoped the amendment would be agreed to.

The question was then taken on the resolution as amended, so as to read as follows:

Resolved, That a committee be appointed to inspect the books and examine into the proceedings of the Bank of the United States, to report thereon, and to report whether the provisions of its charter have been violated or not; that the said committee have leave to meet in the city of Philadelphia, and remain there as long as may be necessary; that they shall have power to send for persons and papers, and to employ the requisite clerks; the expense of which shall be audited and allowed by the Committee of Accounts, and paid out of the contingent fund of this House.

And it was passed in the affirmative.

Messrs. SPENCER, LOWNDES, MCLANE, BRYAN, and TYLER, were appointed the said committee.

TUESDAY, December 1.

Mr. MIDDLETON presented the petition of the Marquis de Vienne, stating, that he served as a Colonel in the service of the United States, in the Revolutionary war; that he was then rich and refused to receive any compensation, but that, having been reduced to poverty by the revolutions in France, he is now compelled to seek a remuneration for his said services, from Congress, and praying to be paid such sum as may be thought a just equivalent therefor; which petition was referred to a select committee; and Mr. MIDDLETON, Mr. HARRISON, and Mr. COLSTON, were appointed the said committee.

Migration of Slaves.

Mr. LINN, of New Jersey, offered the following resolution:

"*Resolved*, That the committee appointed on so much of the Message of the President of the United States as relates to the unlawful introduction of slaves into the United States, be instructed to inquire into the expediency of passing a law prohibiting the migration or transportation of slaves or servants of color from any State to any other part of the United States, in cases where, by the laws of such State, such transportation is prohibited; and that they have leave to report by bill or otherwise."

Mr. LINN said, in introducing his resolution, that it related to a subject of much interest in his part of the country, and, as the resolution only proposed an inquiry, he hoped it would not be objected to.

Mr. POINDEXTER, of Mississippi, objected to it. Any man, he said, had a right to remove his property from one State to another, and slaves as well as any other property, if not prohibited from doing so by the State laws. With those laws, whatever they were, the United States, he said, had no right to interfere. The idea was a perfectly novel one, that there should be a double set of penal statutes on the same subject—one set by the States, and one by the United States—and that the military force of the United States should be employed to carry into effect the penal statute of any State. How were the United States to interfere on this subject? What judicial tribunal would they resort to, to effect the object contemplated? Any penal statute they could pass on the subject, Mr. P. said, would be entirely nugatory, as it could not be carried into effect; and he was therefore opposed even to an inquiry into the matter.

Mr. COLSTON, of Virginia, in addition to what had fallen from Mr. POINDEXTER in opposition to the resolution, suggested that it was perfectly within the power of the State sovereignties to execute any law they might enact on this subject, more effectually than they could do by the aid of the authority of the United States.

The question on the passage of the resolve was then taken, and decided in the negative.

General John Stark.

The bill for granting a pension of sixty dollars per month to Major General John Stark, was read a third time.

On the question, "Shall the bill pass?"

Mr. W. P. MACLAY asked for information of the committee who reported the bill, as no written report had accompanied it, on what grounds it stood; whether the pension was granted because of indigence on the part of General Stark, or for what other reason?

Mr. HARRISON, of Ohio, said his friend from Georgia, (Mr. COBB,) could not have been present when this subject was before the House at the last session, or he would not have asked the information which he now desired. He had supposed his friend from Georgia was better acquainted with the history of his country, than not to know the merits and distinguished Revolutionary services of this hoary veteran. At the darkest period of the Revolution, General Stark had rendered the most important services to his country; and those services were not occasional, but were prolonged to the close of the contest. It was now said that this worthy was in indigent circumstances, and debilitated by old age; that, if not soon bestowed, he would not live to enjoy the aid about to be afforded to him. Was it possible, Mr. H. asked, that an American Congress could behold so distinguished a patriot, as he is, sinking into the grave in the want of every necessary of life, or that they would coldly place him among the mass of pensioners under the general act of last session? For his part, he would give out the last dollar in the Treasury for the relief of General Stark. With him, he said, it was not a matter of choice to vote for the bill; it was an imperious duty.

Mr. LIVERMORE said, that as a member of this House, and as a citizen of New Hampshire, he was grateful to the gentleman from Ohio for the manner in which he had expressed himself on this occasion. He would only add that, as to the circumstances of General Stark, they were, to his personal knowledge, very reduced. He was, as to personal exertion for his support, at the age of ninety years, wholly helpless. He might or might not be owner of a small farm; but, if so, it was an unproductive one. He was, and had been for some time, dependent for support on his children, themselves in very moderate circumstances. This was the true situation of General Stark.

Mr. COBB said, if it was true, as suggested by the gentleman from Ohio, that he was not well versed in the Revolutionary history, should he want information on that head, he should know where to apply; for the gentleman himself was a living chronicle of the occurrences of that day. He did not, he said, doubt the merits of General Stark; but he had yet no evidence

that the pension ought to be granted. The House had been told he was very old and infirm. But, if the House were to grant pensions to the old and infirm, where would they draw the line at which they would stop? Are we to be told, said he, that it is to Revolutionary officers only that pensions are to be granted? Some twenty or forty years hence, may not the same argument, by the aid of this precedent, be applied to General Jackson, General Brown, General Scott, or any other general who distinguished himself during the late war? He was free to say, for himself, that he thought the pension list had already been swelled to an amount which absolutely jeopardized the Treasury, or soon would at the rate at which it still increased.

Mr. LIVERMORE said, General Stark had worn himself out in the service of his country, in his youth, and had since supported himself as well as he could. He was in service before the Revolution, and during that trial he did the nation great service and himself great honor. At an early period of the Revolution, when every patriot was called a traitor, Stark was in the foremost rank. He was in the field at Bennington, and animated the courage of others by his conduct and example. All the inhabitants of New Hampshire, and of the Green Mountains, flocked where Stark was; where he fought, they fought and bled; had he died, they would have died with him.

Mr. BUTLER, of New Hampshire, gave some further information respecting General Stark. He was, he said, the only surviving general officer of the Revolution, now declining in old age, extremely poor, and long supported by his sons, who were not very well able to do it. This, Mr. B. said, might be the last opportunity Congress could have of contributing to the relief of his wants. As a precedent had been demanded, Mr. B. quoted the pension granted at the last session to General St. Clair as directly in point. General Stark, he added, had served during the whole French war, and no man had afterwards done more than him to assert and establish the independence of his country.

The question on the passage of the bill was decided in the affirmative, without division.

WEDNESDAY, December 2.

Another member, to wit, from Pennsylvania, JOSEPH HEISTER, appeared, and took his seat.

A new member, to wit, from North Carolina, WILLIAM DAVIDSON, elected to supply the vacancy occasioned by the resignation of Daniel M. Forney, also appeared, was qualified, and took his seat.

THURSDAY, December 3.

Another member, to wit, from Pennsylvania, LEVI PAWLING, appeared, and took his seat.

FRIDAY, December 4.

Another member, to wit, from Massachusetts, TIMOTHY FULLER, appeared, and took his seat.

Mr. JOHN MCLEAN appeared, produced his credentials, was qualified, and took his seat as the Representative of the State of Illinois in this House.

Claim of Beaumarchais.

The House again resolved itself into a Committee of the Whole, on the bill reported by the select committee for the relief of the heirs of Caron de Beaumarchais.

Mr. TALLMADGE resumed the debate on this subject, and spoke about an hour in opposition to the claim and the bill. He was followed by Mr. BASSETT, in a speech of about the same length, in support of the claim, and in defence of the report of the committee thereon.

Mr. BALDWIN added some remarks on the same side, and in reply to gentlemen who had opposed the claim; after which, the committee rose, and reported the bill without amendment to the House; when the question was taken whether the bill should be engrossed and read a third time and decided in the negative.

And so the said bill was rejected. The House adjourned to Monday.

MONDAY, December 7.

To other members, to wit: from Maryland, SAMUEL RINGGOLD, and from Ohio, PETER HITCHCOCK, appeared, and took their seats.

Surviving Revolutionary Officers.

Mr. JOHNSON, of Kentucky, from the committee appointed on the petition of William Jackson, solicitor for the surviving officers of the Revolutionary Army, and to which were referred sundry petitions of said officers, and of inhabitants of the United States on their behalf, made a detailed report upon said petitions; which was read, and committed to a Committee of the Whole. It is as follows:

That, on the 21st of October, 1780, by resolution of Congress, it was provided that the officers who should continue in service to the end of the war, should be entitled to half-pay during life, to commence from the time of reduction. This stipulation emanated from a previous resolution of Congress, which promised seven years' half-pay to the same class of officers, excepting those who might hold any office of profit under the United States, or any of the States.

By another resolution of Congress, in January, 1781, the stipulation was so extended as to embrace the hospital department and medical staff. In the beginning of the year 1783, a memorial was presented to Congress, from a committee of the officers of the army under the immediate command of General WASHINGTON, proposing relinquishment of the half-pay for life, on condition that an equivalent should be provided, either by the payment of a gross sum or by a full compensation for a limited time. This proposition, which originated with officers of the

army, grew out of a conviction that the half-pay for life was regarded by their fellow-citizens as savoring too much of the spirit of a privileged order, which rendered the measure unpopular with many of the community; and the proposition, on the part of the officers, to relinquish the payment for life, was, and ever will be, viewed as an act of the most distinguished patriotism, in perfect accordance with that entire devotion to the country, which is so strikingly manifested in all their sufferings, sacrifices, and services.

Congress, well apprised of the prevailing objection to the allowance for life, which had been adopted only from necessity, readily embraced the occasion of removing a measure objectionable in its principles, by a commutation of five years' full pay in lieu of the half pay for life, in a resolution of March 22d, 1783, which provided that such officers as were then in service, and should continue therein to the end of the war, should be entitled to receive the amount of five years' full pay in money, or securities on interest, at six per cent. per annum, as Congress should find most convenient, instead of the half-pay promised for life by the resolution of October 21st, 1780; the said securities to be such as should be given to other creditors of the United States, provided it should be at the option of the lines of the respective States, and not of officers individually of those lines, to refuse or accept the same. The commutation was acceded to by the officers generally, in the manner pointed out; and, at the reduction of the army, they received commutation certificates for the amount prescribed. The memorialists state a variety of facts, and present many considerations, to prove that, by the commutation, great injustice has been done to the officers originally entitled to half-pay for life, and their object is to induce the Government to resume the original contract of half-pay for life upon certain terms therein expressed; and the memorial concludes with a specific prayer, that an act may be passed directing the accounting officers of the Treasury to adjust the claim of each surviving officer of the Revolutionary Army of the United States, who, by the resolves of Congress, was entitled to half-pay for life, calculating the amount of the principal of the arrearages from the time of his reduction, and deducting therefrom five years' full pay; and the balance of arrearages being thus ascertained, to issue a certificate, bearing an interest of six per centum per annum, to the officer for the amount of said balance; and the officer to be thenceforth entitled to receive half-pay, in half-yearly payments, for and during the term of his natural life. The committee have endeavored to investigate the subject with all the candor and attention which its merits require; and in any point of view, difficulties of no ordinary magnitude presented themselves.

When contemplating the eminent services and generous sacrifices of that illustrious band, the committee could not withhold a favorable report to the full extent of the prayer of the petitioners, could they be governed alone by feeling. The resources of the nation would never repay the debt of gratitude which is due to the patriots and sages of the Revolution, whose counsels and achievements so essentially contributed to the establishment of that freedom and independence, from which so many blessings flow. Was the prayer of the petitioners asked as a gratuity only, new difficulties would arise; other classes of citizens, equally meritorious, and much more numerous, whose sacrifices were not less extensive, would have equal claims, and merit equal attention. The whole Revolutionary struggle was marked with public sacrifices and public devotion; every class of citizens endured with cheerfulness the privations and losses to which those trying times subjected them, and in the happiness and independence of the country which followed every member of the community found its best reward; and however desirable it may be that every sacrifice, in time of great public calamity, may receive a pecuniary requital, the American Revolution demonstrates its impracticability, and necessity requires that the munificence of Government should have some limitation. Well aware of this view of the subject, the claim of the memorialists is predicated upon contract and legal obligation. In the light of justice, therefore, the committee have also considered this subject; and it is with feelings of extreme regret they find themselves compelled, in duty, to differ in opinion with the memorialists in the prayer of the petition.

The resolution of Congress, under which the claim for the half-pay was commuted, was proposed by the officers, and the commutation voluntarily accepted by them in the manner specified. The memorialists also urge their claim upon the supposition that the commutation was not an equivalent for the original stipulation, that more than five years' full pay was then equitably due. The committee, on this point, are of opinion, that a just estimate was made by the parties when the commutation was agreed upon, under all the circumstances of the case, and ought not to be revised at this day. But, if it were necessary to look for relief, by reviewing the comparative amount, it will be found that the interest of five years' full pay, at six per cent. per annum, is equal to three-fifths of the whole amount of half-pay for life: for example, take the advance to a captain, of five years' full pay, at forty dollars per month, $2,400, the annual interest on which would make the sum of $144, at six per centum, and the whole amount of half-pay would make the sum of $240 per annum.

The advance of five years' full pay will also be found equal to the present worth of half-pay for more than fifteen years. The committee cannot, therefore, discover such a great inadequacy in the amount stipulated. The resolution of March, 1783, provided that the five years' full pay should be in money, or securities on interest at six per cent. per annum, as Congress should find most convenient; the said securities being such as should be given to the other creditors of the United States.

Congress found it most convenient to pay in securities on interest, and for this purpose gave certificates conformable to the stipulation; the only evidence of debt in their power, and the same as were given to other creditors of the United States; the faith of the nation was pledged for the payment of these certificates, and the pledge was subsequently redeemed by the payment of the nominal amount, with interest, in gold or silver, or equivalents, in the hands of the officer or his assignee. If the officers could not command the money in hand for these certificates, neither could they have done so at that day for their half-pay, had there been no commutation: gold and silver were not in the reach of Government at that period. This is suggested only to show that the mode of payment alone was changed, and that the commutation was granted as a fair equivalent.

Upon the view taken by the memorialists, the committee could not see any justice in confining the prayer of the petitioners to those only who still survive. To provide for those, upon the principle of justice and legal obligation, and suffer the dead to be forgotten, would be but a partial remuneration; the heirs of the deceased would have equal claims upon the Government as the officer who survives. Again, the memorialists ask a resumption of the original contract, to which the same objections may be urged as in the year 1783. If then deemed objectionable, because not in accordance with the genius of our institutions, nor congenial with the sentiments of the American people, it may be equally so at this day. Upon the most extensive view which the committee have taken of this subject, they have found difficulties still thickening, and, to answer the prayer of the petition to its extent, would, in the opinion of the committee, go to establish a principle fraught with much evil. Conscious, at the same time, of the merits and worth of these distinguished heroes, whose devotion and deeds have given such glory and such happiness to our country: conscious of their patriotism and valor, which have imposed lasting obligations upon the grateful remembrance of the nation, the committee could not reconcile to their feelings or duty, an entire rejection of the memorial: and they have looked for a combination of the principles of equity and of gratitude, on which might be rewarded, in some little degree, the labor and sufferings of the memorialists, without involving future difficulties, in the establishment of a dangerous precedent: this principle has been found in the depreciation of the commutation certificate, and the losses sustained by the untimely sale of these certificates. It is a well-attested fact, that most of those certificates were sold at an amount of not more than from one-fifth to one-tenth of their nominal value. Gold and silver not being in the power of the Government, the pressing and immediate want of the holders rendered it necessary for them to dispose of their certificates at any price; and, upon this view of the subject, the committee recommend the following resolution:

Resolved, That each officer of the Revolutionary army who was entitled to half-pay for life under the several resolves of Congress upon that subject, and afterwards, in commutation thereof, received the amount of five years' full pay, in certificates or securities of the United States, shall now be paid, by the United States, the nominal amount of such certificates or securies, without interest, deducting therefrom one-eighth part of the said amount.

Foreign Merchant Seamen.

The House then resolved itself into a Committee of the Whole, on the bill to authorize the apprehension of foreign seamen deserting from merchant vessels in the ports of the United States. The bill having been read through—

Mr. SMITH, of Maryland, briefly explained the object of the bill. He stated the nature of contracts made by seamen with captains for voyages; which, being violated by the desertion of seamen in the port of destination, or at any time before the termination of the voyage, sometimes broke up the whole voyage, and ruined those concerned in it. He further stated that in all other countries there were regulations for enforcing the observance of these contracts, of which we, in common with others, enjoyed the benefit. These regulations the present bill proposed to reciprocate, by establishing similar regulations on our part.

Mr. NEWTON, as chairman of the committee who reported the bill, further explained its object. To obtain information on the subject, he said, a letter was at the last session addressed to the Secretary of State, to inquire whether the captains of American vessels had in foreign ports the same privileges granted them, to enable them to recover their seamen, which were proposed to be allowed by this bill to foreigners in our ports. To this letter an answer had been received, which Mr. N. read to the House, and which had satisfied the committee, as he presumed it would the House, of the propriety of passing the bill.*

On motion of Mr. WHITMAN, an amendment was made to the details of the bill, the effect of which was to extend the power of carrying the law into execution, to all civil magistrates.

The question being then about to be put on the committee's rising and reporting the bill—

Mr. CLAY (Speaker) said he was not prepared to say that this bill ought to be reported to the House. If the principle of it was correct, the details were exceptionable. The principle was, that if a seaman, arriving in the ports of the United States, quits the service of the master of the vessel with whom he has contracted, without permission, he should be surrendered without trial to the captain. The pretext for establishing this principle was, that other States extend to us the privilege now proposed to be granted to them. Mr. C. said he was by no means satisfied of the propriety of this exception of seamen from the rules applying to all other citizens of foreign countries. He was not satisfied that a seaman, having contracted to perform a voyage, should, under no possible circumstances, be excused from the performance of that contract. Yet, according to this bill, without inquiry into the facts, without examination into the treatment the seaman may have

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* The letter is as follows:

DEPARTMENT OF STATE, *Jan.* 3, 1818.

SIR: In answer to the inquiries in your letter of the 25th ultimo, with reference to the subject of the resolution enclosed in it, I have the honor to state, that in all the maritime States of Europe, with which I have been personally conversant, there are magistrates invested with authority to arrest seamen, deserters from foreign merchant vessels in their ports, and to restore them to the masters of the vessels to which they belong, conformably to their contracts in the shipping papers. The process in such cases is, as by their nature it must be, to prove efficacious, immediate, and summary; and the masters of American vessels have the benefit of it, in common with others. In the city of London, the authority is vested in the Lord Mayor; and, at other places in Great Britain, in the ordinary police magistrates. I do not recollect having ever known an instance in which masters of American vessels were denied the benefit of such processes, unless in cases when, by the laws of the country, the deserting seaman was, on other accounts, liable to be detained. The practice is, so far as I have known, the same in every part of the European continent.

I am, with great respect, sir, your very humble and obedient servant, JOHN QUINCY ADAMS.

THOMAS NEWTON, ESQ., *Chairman, &c.*

received on the voyage, the seaman was to be bound hand and foot, and delivered over to the captain whose service he had perhaps been compelled by tyranny or abuse to quit. I care not, said Mr. C., what is done in other countries on the subject; their regulations in this respect form in my mind no justification of the provisions of this bill. The details of the bill, he said, were moreover objectionable. The delicate class of cases arising out of our naturalization laws would be seriously affected by its provisions. Suppose a person who, naturalized according to our laws, would *prima facie* be considered by ninety-nine out of a hundred as a foreigner, to be demanded by a foreign captain as a deserter—he would, on his affirmation, be given up, and thus an American citizen would be subjected to this odious provision. Gentlemen might say, they did not mean to carry the principle so far; but, Mr. C. said, such an interpretation might be given by the magistrate before whom the seaman was brought. He never could consent, that, in every case of a seaman leaving his ship, or of any other description of persons, because a contract has been alleged to be violated, without inquiry into the ground of complaint, however just it might be, the alleged offender should be surrendered. If the bill was adverted to, it would be found that two facts only were necessary to authorize the surrender: first, that the party should have made a contract; and, secondly, that he should have quitted the service of the master within the limits of the United States. Were gentlemen prepared to say, that in no possible case a seaman might be justified in quitting the merchant service? If there was a possibility of such justification, Mr. C. said, they ought not to give their assent to this bill. He knew, he said, that commerce and navigation, to a certain extent, make slaves; but that slavery should not be made unnecessarily severe. If in every instance we are to follow foreign examples in our statutes and usage, to what lengths may we not go? Impressment of seamen for national ships, said he, is a foreign practice: we may be called upon, on the principles of imitation, to sanction that practice. But, said Mr. C., if our Navy could be maintained only by impressment, dear as I consider that Navy to the interest and to the glory of the country, I would see it annihilated before I would sanction such a practice. Gentlemen, therefore, he said, would not get his assent to the bill by telling him what was done in foreign countries. Over our country a particular genius of liberty presided: we must take care not to banish it by following, step by step, in the wake of other nations, and justifying ourselves for what we do only by exhibiting a precedent in what they have done before us. Mr. C. had other objections to the bill. If there were cases in which it was found necessary to reciprocate provisions with foreign powers for the security of navigation, and such cases there might be, let them be settled by treaty, by reciprocal stipulation. If they extend in their ports but bare civility to us, let us do the same to them. On what foundation was the House invited to pass a bill involving so many delicate considerations, and objectionable provisions? Why, on the ground of a letter—and, without any disrespect to the author of it, a very loose letter, from the Secretary of State. Mr. C. here read some passages of the letter. The honorable Secretary, he said, had not told the House how far his personal acquaintance with foreign countries extended, nor what was the nature of the provisions in that country, analogous to those of this bill; whether in every possible instance a surrender is to take place; whether in all cases the seaman is inextricably yielded up to the captain claiming him. Mr. C. said he wished, before he could act on this subject, to see the laws of foreign countries, and not on such a vague indefinite account of them to bottom such severe provisions. We have just learnt, too, said he, that, with regard to that power with which we have had the greatest difficulty respecting seamen, an arrangement had been made, such as to remove all causes of complaint against her. I should like to see that arrangement, and examine its provisions, before acting on this subject. He hoped, he said, the honorable chairman of the Committee of Commerce and Manufactures would not hurry this bill to a decision. Let us first know, said he, the provisions of the foreign States with which the honorable Secretary has been personally conversant. Let us, above all, recollect, whatever foreign nations do, that here alone liberty flourishes, and personal rights are fully enjoyed; and that whatever we do should have reference to this peculiarly happy condition of our country, and be conformable to it.

Mr. NEWTON said he had not the least objection that time should be given to the Speaker, and to all the House, to obtain any information they might desire on this subject. But, he said, he did not view the provisions of the bill in the light which the gentleman had viewed them. The bill was a transcript of the act which passed as long ago as the year 1790, for securing to masters the services of American seamen engaging with them. Thus, it appeared, that it was no new principle the bill proposed to introduce into legislation, but as old as since January 20, 1790. Mr. N. said he knew that the practice of impressment existed in some foreign countries. No one had a greater abhorrence of it than he; and the Speaker would perceive the bill proposed to confer no power to take up deserters from the British or any other navy, and restore them to their ships. It embraced the case of seamen deserting merchant vessels only, in violation and disregard of a voluntary contract. The captain, however, must also fulfil his part of the contract, and the magistrate before whom the seamen is brought may, if he choose, require proof of the fact, and decide upon the case according to his own discretion. Contenting himself at the present time with having made the suggestions, and de-

siring the subject should be well understood, and the information upon it be as full as possible, he had no objection that the bill should lie on the table.

Mr. WHITMAN defended the bill. The same provisions which it contains, he said, had been in operation in regard to our own seamen for twenty-eight years past, and are yet in force. In every seaport of the United States persons have been apprehended who have been alleged to have violated their contracts, committed to prison, and there detained until the vessel to which they belong was bound to sea, and no inconvenience had ever been felt from the execution of the law. With regard to their being delivered to the captain claiming them, without a hearing, the Speaker was mistaken in that particular. The act required examination before decision, and applied the same rules to this description of contract which prevailed in regard to all civil contracts. The gentleman's nice scruples on the subject would apply to any case in which individuals had by contract a right to the personal service of any other individuals.

Mr. W. said he should suppose the gentleman would be as tender of the liberties of our native seamen as of foreign seamen resorting to our ports; and it appeared that similar provisions had existed for near thirty years in regard to American seamen, without exciting any apprehension in regard to our liberties, and without endangering the rights of a single individual. And are we now, said he, to be frightened by bugbears, if the Speaker will excuse the remark, which could alarm only the most timid imagination? With respect to the reported treaty, Mr. W. said that the treaty could have no bearing on this question. He never knew a treaty to contain provisions for compelling seamen in the merchant service to return on board their vessels after deserting them. Heretofore, it had been supposed that the act of 1790, which was rather obscurely worded, did apply to foreign captains and foreign seamen as well as to those of the United States; and the magistrates throughout the country had so executed it. But, of late, the question had been examined, and the act had received a different construction. It had, therefore, become necessary to supply an obvious defect in the law; in doing which, Mr. W. said, he could not see the danger to the natural rights of man, or the liberties of the citizen or foreigners, which the Speaker appeared to apprehend. With respect to naturalized foreigners, there could be no difficulty: the seamen would have only to produce to the magistrate the evidence of his naturalization, and the magistrate could not do otherwise than instantly liberate him. Apprehensions of abuse of power were, he said, no argument against necessary grants of it; and the argument from possible abuse would apply equally well to any other powers possessed by our magistrates as to this. When it was considered that, in all foreign ports, we enjoyed the right proposed by the bill to be allowed to foreigners in our ports, it was a sort of comity due to others to adopt this measure. Was it, he asked, to be considered a reprehensible principle, because foreign Governments had adopted it, when we ourselves have for many years acted on it? Mr. W. could not see any reason why the subject should be deferred. The bill, he said, did not affect British sailors only, but the sailors of every nation. Therefore nothing which is in the expected treaty, or is not in it, could obviate the necessity of a general provision which, if not necessary as to British seamen, would be necessary as to all other foreign seamen visiting our seaports. There never, however, had been any negotiation between nations, that he knew of, in regard to provisions such as those of this bill; and how there could be any thing in the reported British Treaty about the subject, he could not conceive.

WEDNESDAY, December 9.

Another member, to wit, from Massachusetts, ELIJAH H. MILLS, appeared, and took his seat.

Pensions to Widows and Orphans.

The House resumed the consideration of the bill allowing half-pay pensions of five years to the widows and orphans of those soldiers enlisted for twelve months, for eighteen months, and of the militia who died within four months after their return home, of sickness contracted while in service.

On the question of ordering the bill to be engrossed for a third reading, a debate of considerable length took place, in which Messrs. BARBOUR, HARRISON, T. M. NELSON, of Virginia, JOHNSON, of Kentucky, and COMSTOCK, very earnestly advocated the bill, supporting it chiefly on the ground that it was required not only by humanity, but by equal justice, as the objects to be relieved by the bill were as much entitled to relief as the widows and orphans of those who died after their return home, of wounds received in service; that the expense was inconsiderable compared with the object, particularly as much larger sums were lavished on objects of comparative insignificance.

The bill was as earnestly opposed by Messrs. SMITH, of Maryland, TAYLOR, TERRELL, SIMKINS, and LIVERMORE, on different grounds; but principally for the reasons that the Government had already gone far enough—much farther than any other Government—in relieving the individual distresses consequent on the war; that, admitting the provision to be proper at all, it would be opening the door too wide to extend it to cases of death within four months after the return of the soldier to his home; that the expense would be enormous; that feelings of humanity ought to have some limit in public expenditures, and that such feelings, if always obeyed, would find the whole Treasury insufficient; that it was time to draw some line of limitation, &c.

Mr. HARRISON said that he should be among the last men who would attempt to introduce

into this country that system of sinecures and pensions which had produced so much misery in the other hemisphere of the world, dividing almost the whole population of Europe into two very unequal divisions—the one extremely rich, the other miserably poor. There could, however, he said, be no danger of this as long as our free constitution remains. As long as the money of the people is appropriated by the real Representatives of the people, it will be given only for an equivalent public service, or for some suffering in that service, claiming the public beneficence. An examination of one of the pension lists of a modern European Government would present a very different aspect from that on your table. Not moderate allowances for real services, but enormous grants for nominal duties, or for services to a Government whose interests are in direct hostility to the interests of the nation. It is not even the constant and unnecessary wars in which these Governments are engaged that have rendered their subjects miserable, but the wild profusion and extravagance of their corrupt Courts. It is this which, in the language of our great countryman, "obliges the European laborer to go supperless to bed, and moisten his bread with the sweat of his brow."

There are two kinds of suffering, said Mr. H., in the public service, which are recognized by our laws as giving a claim to the public bounty. The one, in the case of wounds or disability incurred in the Army or Navy of the United States. The other, an indirect suffering, as in the case of widows or children, who had lost their husbands or parents in that way. The claims of the first are not questioned. It is admitted by all, that the man who has lost a leg or an arm in serving the nation, as it lessens his ability to maintain himself, should be provided for during the continuance of his disability. But what appears to me, said Mr. H., to be a singular inconsistency; to the woman who has lost her husband who supported her, the child its parent, on whose exertions alone it depended for maintenance and education, our laws allow a limited assistance, leaving the sufferers often in a worse situation than it found them.

I consider this difference, said Mr. H., at war with the dictates of justice, of sound policy, and the first republican principles. Permit me, Mr. Speaker, said Mr. H., to ask what was the motive for the enactment of the law of 1816 in relation to pensions? Was it to establish the great national principle of indemnity to the sufferers as far as indemnity could be given? Or was it intended as a mere temporary relief, as we would throw a dollar to the beggar in the street? If the first was the motive, the law was entirely inadequate to its object. If the second was the motive, it was, in his opinion, unworthy of the nation.

Equality, in the contributions for the public service, is one of the first principles of our Government.

The public burdens are to fall equally upon all in proportion to their means. No individual and no family are to furnish more than their just share, either of money or of personal service, without an equivalent.

And yet, here are 1,800 families who have contributed more than their proportion; some of them their all for the public service. You cannot, indeed, restore the husband to the widow, the parent to the child—but you can supply their places to a considerable degree, and I think that it is your duty to do it.

The principle for which I contend, said Mr. H., may be more easily calculated by applying it to a small community. Let us suppose, then, that one hundred families were settled upon an island in the Pacific Ocean, at such a distance from every civilized State as to make it necessary to form one of themselves—their situation would make it purely republican. All possessing equal right, and all bound to defend their little community against every aggression. The savages of a neighboring island attempt to dispossess them; a battle ensues, in which our little community is victorious, with the loss of five of their number killed and five wounded. The situation in which they would find themselves, is one for which they had not provided. The wounded men would say to the others, as we have been rendered unequal to the maintenance of our families by wounds received for the benefit of all, it is just that we should receive assistance from you to cultivate our farms. The claim would be readily admitted. As would, in the first instance, the claims of the widows and orphans of those who had fallen—but at the end of five years, before the children of the widows had reached that age when they could labor for themselves and their mothers, they are told that they can receive no further aid, while the wounded men are provided for for life. If this principle is admitted in our Government, our militia laws are most unjust and oppressive. They require the same personal service to be rendered by all, the rich and the poor. But the rich married man is allowed to furnish a substitute—the poor married man, unable to hire one, is obliged when called upon to serve in person. As the poor, then, fight all your battles, which is, perhaps, unavoidable, it is just and right the consequences of their service should fall as lightly as possible on their families. In the late war, it was to their valor and patriotism that you were indebted for the preservation of Baltimore, Norfolk, and New Orleans, and your Northern and Western frontiers. It is possible that when the great emporiums of your commerce were attacked, some wealthy men might have been found in the ranks with their poor fellow-citizens. At Baltimore, for instance, there might have been a merchant, possessed of a fortune of half a million of dollars, placed by the side of a mechanic whose family depended for support on the daily labor of his hands. The former might say to the latter, "Let us remember that we fight for our country, our families, and our property; let us

die rather than suffer our city to be taken." The latter might have answered, "As an American citizen, I shall always be willing to defend my country with my life, and I was just thinking how cheerfully I would meet the enemy if my situation were like yours. If you fall, you leave your family in affluence; if the lot should be mine, I leave a beloved wife and children to the charity of an unfeeling world. Our laws are unequal and unjust; they require the same personal service of us both, when one day's labor is of more importance to my family than twenty of yours would be to your family; that I would disregard if our laws had provided that in the event of my fall, the wealth which I have sacrificed myself to defend should be taxed to support my orphan children."

Pass but this law, sir, said Mr. H., and you take from an American citizen, called on to serve his country in the field, every motive which would prevent him from doing his duty. An American army would be a band of heroes. The tenderest feelings of our nature are not inconsistent with the most heroic bravery. There are moments when the powerful influence of domestic attachment will find its way to the bosom of the warrior, but, unmingled with any distressing reflections as to the fortune of his family, it will only prove an incentive to the performance of his duty.

Permit me, sir, said Mr. H., to give another example to show the injustice and inequality of the existing laws in relation to pensions. It is a case as nearly similar as possible to that which was stated a few days ago by my friend from Virginia, (Mr. BARBOUR,) and if he will give me leave, I will again introduce to the House one of the widows whose case he so eloquently supported. I will take the one who has received the five years' pension, and contrast the situation of herself and family with that of a neighboring lady, whose husband had lost a leg in the late war. Both husbands had performed the same services, in the same corps, and with the same rank; one lost his life, and the other his leg. To the latter you give a pension for life—to the former a pension for five years. Is there any equality or justice in this? Is it not setting a higher value upon the leg of one man than the life of another? It may be said that in the one case it is given to the individual who suffered, in the other, to his family.

Sir, said Mr. H., is not the wife and the children identified with the husband and parent? The misfortune of the one is the misfortune of the other, and there should be no difference in the relief you offer them.

The principle for which I contend (said Mr. H.) is not a new one; it is sanctioned by the practice of one, at least, of the great republics of antiquity, and by the opinions of some of the wisest and best men that ever lived. In the elegant work of the Abbe Barthelemy, entitled the travels of Anacharsis, (an authentic history with a fictitious title, as every one knows,) the author brings his supposed traveller to Athens at the period of one of the great national festivals. The ceremonies were concluded by the advance of a herald, followed by a number of young men completely armed; these, said he, (addressing the assembled Athenians and pointing to the youths,) these are the sons of those patriots who have fallen in the service of their country; they have been educated at the public expense until they have reached the age of manhood, and are now to be dismissed to their families clothed and armed at the expense of the State. Such was the law of Athens, promulgated by Solon, and continued without interruption for upwards of one hundred and fifty years, until she was first corrupted by the gold of Philip, and her liberties finally overturned in the fatal battle of Cheronea. It is mentioned by Pericles in his oration over the Athenians who fell in the first campaign of the Peloponnesian war. Referring to this law, he concludes his speech in these remarkable words: "For when virtue is best rewarded then will patriotism most prevail." Nor is this great statesman, said Mr H., the only evidence I can adduce to show the good effects produced by this law to the Athenians. [Here Mr. H. read an extract from Stanley's life of Solon, showing the approbation given to this law by Aristides, Plato, and the ancient historian, Laertius, and then continued.] I consider these authorities, said he, as decisive of the good effects produced by this law in the republic of Athens—a Government more nearly assimilated to our own, as it regards the principles upon which it was founded, than any other, ancient or modern. After the experience of a century, the ablest statesmen and most virtuous men declared it to be one of the most powerful causes which produced that ardent patriotism and heroic valor which distinguished the period that has been emphatically denominated their age of glory.

The eulogium of Aristides upon the Athenians proves, to my satisfaction at least, that the passage of the bill before the House will not produce those ruinous consequences to the Treasury which some gentlemen seem to apprehend. Himself, the incorruptible statesman who presided over the finances of his nation; the honest man who suffered exile rather than flatter the follies of his countrymen, affords the best evidence that it produced no pecuniary embarrassment to a State whose whole territory can scarcely be discovered upon a general map of Europe. Amidst all the calamities which war often brings upon a nation, the Athenians adhered to this law as the sheet-anchor of their hopes. During the time it was in force their city was three times taken and twice razed to the ground. At the time that Pericles was speaking, the whole of their continental territory was in possession of their enemies, and ravaged with fire and sword. A pestilence also prevailed within the city with a malignity to which there is no parallel on record—an event which gave to a member of this House (Mr. HOPKINSON) an opportunity for an histori-

cal allusion, in one of the most splendid specimens of forensic eloquence which this country has ever witnessed.

Sir, said Mr. H., I consider that a great part of the money which may be taken from the Treasury by the passage of this bill, will be as usefully employed for the benefit of the nation as it could well be. The pious and patriotic mothers to whom it will be given will employ it in the education of their sons, and they will never cease to remind them of the obligations they owe to their country. "Emulate the patriotism of your father," will be the reiterated lesson from childhood to manhood. To have such lessons taught to every youth in the country, I, said Mr. H., should be willing to give the yearly balances which may remain in the Treasury for fifty years to come. There is something in the female character admirably calculated to gain an ascendency over the minds of those violent but generous youths who are formed by nature to act a splendid part upon the theatre of the world, and who, when a proper direction is given to their passions, become the friends and benefactors of mankind. They listen with more attention to the mild admonitions of the mother than the rougher mandates of an imperious father. It is very remarkable that the great votaries of liberty, both ancient and modern, have received the impulse from this source. The Gracchi, Brutus and Cassius of Rome, Agis and Cleomenes of Sparta, our own Washington, and perhaps Kosciusko, are a few out of the many instances that could be adduced.

The question on engrossing the bill and ordering it to a third reading, was at length decided in the affirmative—yeas 87, nays 68.

The bill was ordered to be read a third time to-morrow.

The House then, on motion, adjourned until to-morrow.

THURSDAY, December 10.

Cadets at West Point.

The House resolved itself into a Committee of the Whole on the bill, reported at the last session, "for the admission of cadets into the Military Academy;" [directing that in all applications for the admission of cadets into the Military Academy at West Point, a preference shall be given to the sons of officers and soldiers who were killed in battle, or who died in the military service of the United States in the late war; and that a further preference shall be given to those least able to educate themselves, and best qualified for the military profession.]

Mr. SMITH, of Maryland, moved to amend the bill by striking out the last clause, directing "a further preference to be given to those least able to educate themselves, and best qualified for the military profession," remarking that he saw no reason for the preference, and until he heard something convincing in favor of the discrimination, he should remain of opinion that it ought to be stricken from the bill.

Mr. STROTHER addressed the committee at considerable length in opposition to the object of the bill, urging chiefly that it was sanctioning a preference of a particular profession, and thus creating a privileged order in the community; that it was virtually declaring an unnecessary jealousy of the discretion now vested in the War Department, implying an opinion that it was not exercised properly; and would, moreover, preclude it from selecting the most fit and most worthy; and was perverting the true object of the institution, which was established for the general benefit, &c.

Messrs. HARRISON, and JOHNSON of Kentucky, replied to the objections of Messrs. SMITH and STROTHER, stating that the bill had been reported in pursuance of a resolution adopted on the motion of a late distinguished member of this House, (Mr. ROBERTSON, of Louisiana;) that the provisions of the bill appeared to be required by the original purpose of the institution; that, instead of creating an aristocracy, it would tend to counteract any such thing.

The question on Mr. SMITH's motion was decided in the negative.

Mr. TAYLOR observed that, notwithstanding what had been said in defence of this bill, its effect was certainly to create a privileged order in the country; that, although the selection proposed might be expedient and laudable to a certain extent, there was no doubt that the department now vested with the selection would keep in view, as far as was proper, the principle proposed; but it would in his opinion be highly improper for Congress by a formal act to sanction such a distinction. In lieu, therefore, of the provisions at present proposed by the bill, he moved the following, as a substitute: "That cadets shall hereafter be admitted into the Military Academy at West Point, from the respective States and Territories, and from the District of Columbia, in proportion to the militia returns thereof."

Mr. HARRISON reiterated his objections to the amendment, and observed, in addition to what he had submitted already, that the design of this bill was really to get rid of a practical aristocracy, instead of creating one; for it was a fact, he believed, that no son of a soldier (by the term he meant not also to include officers) had ever yet been educated at the Military Academy. Mr. H. then stated that if Mr. TAYLOR's amendment should prevail, he would move to add the following: "And that in all cases the preference be given to those whose parents are least able to educate them;" and intimated that he should then move an additional section requiring cadets to remain at the Academy until the age of twenty-five years.

Mr. CLAY then rose, and moved that the committee rise, report progress, and then let the House get rid of the whole subject.

This motion prevailed, and, the bill being reported to the House, the committee was refused leave to sit again; and the bill was laid upon the table.

MONDAY, December 14.

Another member, to wit, from Delaware, WILLARD HALL, appeared, and took his seat.

WEDNESDAY, December 16.

Arkansas Territorial Government.

Mr. ROBERTSON, of Kentucky, offered for consideration the following resolution:

Resolved, That a committee be appointed to inquire into the expediency of establishing a separate territorial government in that part of the new Territory of Missouri, lying south of thirty-six degrees and thirty minutes north latitude, which is called the Arkansas country, and which is not included in the proposed boundary of the projected State of Missouri, by the bill now before the House, for the purpose of establishing a State government in part of the Territory of Missouri, and that the said committee have leave to report by bill, or otherwise.

Mr. R. explained briefly the object of his motion. There being every reason to expect that the people of the Territory of Missouri would be authorized, at the present session, to form a constitution of State government, and with certain limited boundaries, the whole Territory being too extensive to be included within one State; that part of the Territory not included within the limits of the State, would of course have occasion for a separate Territorial government, which, as in the case of the admission of Mississippi into the Union, had been done in regard to the Territory of Alabama. But, if his expectation was disappointed, and an act should not pass at the present session to authorize the people of Missouri to form a State government, it was yet necessary that a separate Territorial government should be established. This Territory, which was likely to become in time one of the most populous Territories in the Union, was, from its remoteness from the present seat of Government, almost without either law or government.

Mr. SCOTT, of Missouri, said he did not rise to oppose the resolution; on the contrary, had he a vote to give, it would be for its adoption. He was not sensible that any remarks he was capable of making would have any influence on the vote of the House, but he rose, lest his silence might be construed into an opposition, which he did not intend, and to repel any inference that might be drawn that he had neglected his duty to a part of his constituents, in not being the mover of the proposition. He had intended to introduce a resolution of a similar character, so soon as he should receive from the Legislature of the Territory a memorial praying for the erection of a State in the northern section of the Territory, together with a certified copy of the census of the whole Territory, which he was in the daily expectation of receiving. This data had not yet arrived, and he felt a reluctance, in the press of business before the House, to present, voluntarily, a proposition, even for the consideration of the House, without having good authority, or some leading reason to justify him. He knew, however, that the situation of that portion of the Territory, removed four or five hundred miles from the seat of Territorial government, called loudly for the interposition of the General Government. They were not unfrequently without a competency of civil and military officers to administer justice, or keep order in the country; and although he was not in possession of the census of the Territory, or any petition from the people of that part of it, yet he was convinced that the quantity of the population, and its respectability, justified the request; and believing, as he did, that it was the wish of the people, and knowing it was their interest, he hoped the House would not consider the resolution premature, but that it would be adopted.

The motion was then agreed to, without opposition, and Messrs. ROBERTSON, BEECHER, and JONES, were appointed the said committee.

Passenger Ships.

The bill to regulate passenger ships and vessels came next in order.

Mr. NEWTON explained the necessity of this bill and the nature of its provisions. The great object of it was, he said, to give to those who go and come in passenger vessels, a security of sufficient food and convenience. In consequence of the anxiety to emigrate from Europe to this country, the captains, sure of a freight, were careless of taking the necessary quantity of provisions, or of restricting the number of passengers to the convenience which their ships afforded. To show how necessary such a bill as this had become, one or two facts would suffice. In the year 1817, five thousand persons had sailed for this country from Antwerp, &c., of whom one thousand died on the passage. In one instance a captain had sailed from a port on that coast with one thousand two hundred and sixty-seven passengers. On his voyage he put into the Texel, previous to doing which four hundred had died. After being on the passage to our shores, before the vessel arrived at Philadelphia, three hundred more had died. The remainder, when the vessel reached Newcastle, were in a very emaciated state from the want of water and food, from which many of them afterwards died. Many other cases might be stated, but these would suffice to show the absolute necessity of provisions such as those of this bill. The bill restricted the number of passengers to two for every five tons' burden of the vessel. In Great Britain, formerly, but one had been allowed to every five tons; but now, one to every three tons. The committee had been of opinion that the scale of one to every two tons and a half would afford every necessary accommodation. With regard to the other sections of the bill, they were generally similar to those of the act respecting seamen, by which a captain is obliged to take on board a certain quantity of water and bread for each seaman employed.

No objection being made to the bill, it was ordered to be engrossed for a third reading.

THURSDAY, December 17.

Another member, to wit, from South Carolina, STEPHEN D. MILLER, appeared, and took his seat.

FRIDAY, December 18.

The SPEAKER presented a memorial of the Legislative Council and House of Representatives of the Territory of Missouri, in the name and on behalf of the people of the said Territory, praying that they may be permitted to form a constitution and State government, with the boundaries described in said petition; and admitted into the Union on an equal footing with the original States.—Referred.

MONDAY, December 21.

Another member, to wit, from Massachusetts, SOLOMON STRONG, appeared, and took his seat.

The House then resolved itself into a Committee of the Whole, on the bill making appropriations for the support of the Navy of the United States for the year 1819.

The bill includes the following items:

Pay of officers and seamen -	$1,270,333 50
Provisions - - - -	594,037 50
Medicines and all expenses of sick	36,000 00
Repairs of vessels - - -	350,000 00
Contingent expenses - - -	300,000 00
Repairs of navy yards, docks, &c.	100,000 00
Completing medals and swords -	7,500 00
Pay and subsistence of marine corps - - - - -	122,898 00
Clothing the same - - -	2,038 10
Military stores for do. - -	1,087 50
Contingent expenses - - -	18,600 00

The bill was then reported to the House, and ordered to be engrossed for a third reading.

WEDNESDAY, December 23.

J. J. Dufour, and others.

Mr. POINDEXTER reported, from the Committee of Public Lands, a bill to extend, for the term of twelve months, the time allowed to J. J. Dufour and his associates, of Vevay, Indiana, for completing the payment for the lands purchased by them from the United States.

On this bill arose a debate, which wholly occupied the House until the usual hour of adjournment, in the course of which the bill was so amended as to make the extension for six, instead of twelve months.

The debate was more animated than at the first glance one would have expected such a question to produce. The petitioners ask this indulgence, because such money as they have the receiver of public moneys will not take from them. The bill, therefore, was supported on various grounds, on the reasonableness of the request, and on the merit of the petitioners, on whom a high eulogium was pronounced. The bill was opposed on the general ground of the inexpediency of making a discrimination between these claimants and other petitioners. Messrs. POINDEXTER, HARRISON, TAYLOR, HENDRICKS, TRIMBLE, MERCER, and BEECHER, supported the bill, and Messrs. WILLIAMS of North Carolina, SIMKINS, MILLS, STORRS, McCOY, SERGEANT, and DESHA, opposed it.

The question on ordering the bill to a third reading having been taken by yeas and nays, was decided in the affirmative—yeas 73, nays 67.

THURSDAY, December 24.

Another member, to wit, from Tennessee, GEORGE W. L. MARR, appeared, and took his seat.

MONDAY, December 28.

Mr. IRVING presented a petition of "The New York Society for promoting the Manumission of Slaves, and protecting such of them as have been or may be liberated;" praying that some effective provisions may be made to abolish the African slave trade, in any arrangement which may be hereafter definitively entered into between this country and Spain, or the South American provinces.

Mr. SERGEANT presented a memorial from the American Convention for promoting the Abolition of Slavery, and improving the condition of the African race, praying that the acts respecting the illicit introduction of slaves into the United States may be so amended, as that any person so introduced shall be declared free; and that the situation of slavery within the District of Columbia may be considered, and a plan devised, for its gradual and certain termination within said District.—Referred to the committee on the part of the President's Message which relates to the illicit introduction of slaves within the United States.

Vevay—Cultivation of the Vine.

Mr. PINDALL, after stating that information had come to his knowledge since the decision of the House, on Thursday last, against the bill for the relief of J. J. Dufour and others, which he thought had a material bearing on the expediency of extending relief, in some shape, to the petitioners, and after entering into some reasons which, from reflection and further investigation, had occurred to him, in support of the motion he rose to make, moved to reconsider the vote which rejected the bill, and to bring it before the House to receive the modification which he thought would entitle it to the sanction of the House.

Mr. LINCOLN, of Mass., spoke as follows:

Mr. Speaker: I place my vote on the broad basis of national policy—the policy of encouraging emigration, and the culture of the vine. When I am told that the inhabitants of the little

village of Vevay are the countrymen of the illustrious Tell, that they are planters of the vine, and industrious and virtuous people, delighting in the exercise of the rights of hospitality, I find my sympathy strongly excited; yet I do not suffer that sympathy to delude my understanding. But, should these people write to their friends across the Atlantic, and inform them that they are here, enjoying the patronage and fostering care of our Government, would not those friends, although looking around them, and seeing themselves surrounded by ramparts of mountains, yet, perceiving the avalanches of European power continually tumbling upon their heads, be disposed to abandon a country where their liberties are so insecure, and come to one where they should be assured of an asylum? On the other hand, should they be informed that these persons came to their hard-hearted creditor—that creditor an opulent, powerful nation, and told him that they had been unfortunate, but not guilty; negligent, but not delinquent; yet that he drove them from his door with scorn and contempt, bade them begone, and prepare to pay him the last farthing of their bond at the moment when it should become due, what, then, would be their feelings? They could not be other than those of the deepest aversion and horror. We cannot do too much, sir, to encourage the emigration of a class of population like that of the Cantons of Switzerland, a population remarkably assimilated to that of our own country, in manners, customs, feelings, and principles.

There is yet another argument more weighty than that just urged—I mean that resulting from the policy of encouraging the cultivation of the vine, encouraging it, paradoxical as it may seem, for the purpose of preventing intemperance; for, true it is, that there are no people more temperate than those of France and Switzerland. The reason is, that they make use of the products of their own vineyards, as the substitute for those deleterious ardent spirits which are here consumed to so lamentable an excess. Give then to these people a little indulgence, and you shall see not only the banks of the Ohio festooned by the grape vine, but it shall climb to our mountain tops, and its fruit bask in the sunshine upon all our hills.

The question was then taken on reconsidering the vote on the bill, and decided in the affirmative; when, on motion of Mr. PINDALL, the bill was referred to a select committee.

TUESDAY, December 29.

Mr. H. NELSON, from the Judiciary Committee, to whom had been referred the letter of the Sergeant-at-Arms, respecting the suit commenced against him by John Anderson, reported a resolution authorizing and requesting the Speaker to employ such counsel as he may think proper to defend the suit brought by John Anderson against the said Thomas Dunn, and that the expenses be defrayed out of the contingent fund of the House; which resolution was concurred in.

THURSDAY, December 31.

Death of Mr. Mumford.

Mr. SMITH, of North Carolina, announced the death of GEORGE MUMFORD, a member of this House, from the State of North Carolina; whereupon,

Resolved unanimously, That a committee be appointed to take order for superintending the funeral of GEORGE MUMFORD, deceased, late a Representative from the State of North Carolina.

Messrs. SMITH, of North Carolina, WILLIAMS, of North Carolina, OWEN, STEWART, of North Carolina, SETTLE, EDWARDS, and SLOCUMB, were appointed the said committee.

Resolved unanimously, That the members of this House will testify their respect to the memory of GEORGE MUMFORD, late one of their body, by wearing crape on their left arm, for one month.

Resolved unanimously, That the members of this House will attend the funeral of the late GEORGE MUMFORD, to-morrow morning at 10 o'clock.

Ordered, That a message be sent to the Senate, to notify them of the death of GEORGE MUMFORD, late a member of this House, and that his funeral will take place to-morrow, at 10 o'clock.

The House then adjourned to Monday.

MONDAY, January 4, 1819.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the 7th instant, requesting me to lay before it the proceedings which have been had under the act, entitled "An act for the gradual increase of the Navy of the United States," specifying the number of ships that have been put on the stocks, and of what class, and the quantity and kind of materials which have been procured, in compliance with the provisions of said act, and also the sums of money which have been paid out of the funds created by the said act, and for what objects; and likewise the contracts which have been entered into, in execution of the said act, on which moneys may not yet have been advanced; I transmit a report from the acting Secretary of the Navy, together with a communication from the Board of Navy Commissioners, which, with the documents accompanying it, comprehends all the information required by the House of Representatives.

JAMES MONROE.

DECEMBER 31, 1818.

The Message, with its enclosures, was ordered to be printed.

Exports.

The SPEAKER laid before the House the following letter from the Secretary of the Treasury:

TREASURY DEPARTMENT, *Jan.* 1, 1819.

SIR: I have the honor to transmit a statement of the exports of the United States, during the year ending the 30th of September, 1818, amounting in value, in articles of

Domestic produce and manufacture, to	$73,854,437
Foreign do do do do	19,426,696
	$93,281,133

Which articles appear to have been exported to the following countries, viz:

	Domestic.	*Foreign.*
To the northern countries of Europe	1,554,259	1,081,424
To the dominions of the Netherlands	4,192,776	3,022,711
Of Great Britain	44,425,552	2,292,280
Of France	10,666,798	3,283,791
Of Spain	4,589,661	2,967,252
Of Portugal	2,650,019	248,158
The Hanse Towns and ports of Germany	2,260,002	1,073,491
All others	3,515,355	4,915,589
	$73,854,437	$19,426,696

I have the honor to be, &c.

WM. H. CRAWFORD.

The SPEAKER of the House of Reps.

The letter, with its enclosures, was ordered to be printed.

The Slave Trade.

Mr. MERCER introduced the resolution which follows by a few remarks, importing that the law of the United States prohibiting the citizens of the United States from engaging in the slave trade, was evaded in a manner which demanded the interposition of Congress. He referred to the law which authorizes the President of the United States to employ our armed vessels in executing its provisions, and also authorizes those vessels to seize and bring into the ports of the United States all ships and vessels engaged in the violation of it. In a publication which Mr. M. said he had seen, and to which he referred, the names were given of at least twenty vessels fitted out in the ports of the United States for the obvious purpose of carrying on the slave trade. Appeals had been taken from the decisions which had been made by the inferior tribunals in some of these cases, and the names of American houses and American citizens engaged in this detestable traffic, were to be found on the records of the British court. To obtain information having a direct bearing on this subject, Mr. M. submitted this resolution:

Resolved, That the Secretary of the Navy be directed to report to this House a copy of such instructions, if any, as may have been issued by this Department, in pursuance of the act of Congress of 1817, prohibiting the importation of slaves, to the commanders of the armed vessels of the United States, for the purpose of intercepting, on the coast of Africa, or elsewhere, such vessels as have been engaged in the slave trade.

The motion was agreed to.

Mr. MERCER then said, he had another resolution to offer, in relation to another branch of the same subject. We have all been informed, he said, in the course of the last few months, that individuals brought into the United States, in violation of the law before referred to, had, in execution of the provisions of the law, been condemned to hereditary slavery; and, on examining the acts of Congress, he found that the authority under which this iniquity (he would so call it) had been practised, was derived from one of those acts. To obtain such information as might assist the House in arriving at a proper remedy for this fault, he moved the following resolution:

Resolved, That the Secretary of the Treasury be directed to report to this House the number and names of the slave ships, if any, which have been seized and condemned within the United States for violation of the laws thereof against the importation of slaves, and if any negroes, mulattoes, or persons of color, have been found on board such vessels, their number, and the disposition which have been made of them by the several State Governments under whose jurisdiction they have fallen.

Mr. STROTHER moved to amend the resolution so as to direct a report to be made also of the number and names of the slave ships, if any, and of the ports from which they had sailed, if they could be ascertained. Mr. S. said he wished that the ignominy of this trade, if any, should attach where it belonged, and not be imputed, on the authority of general rumor, to the whole country. He wished at least that the country of which he was a Representative should be absolved from any charge of participation in it.

Mr. FLOYD wished also, that the names of the places where the vessels are owned should be added to that of the place whence they sailed.

Mr. COBB desired to amend this resolve further, so as to require information by whom, as well as where, the vessels were owned.

These amendments were not objected to by Mr. MERCER, and were, as well as the original motion, all agreed to.

TUESDAY, January 12.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States;" in which they ask the concurrence of this House.

The Seminole War and General Jackson.

Mr. T. M. NELSON, from the Committee on Military Affairs, made a report concluding with the following resolution:

Resolved, That the House of Representatives of the United States disapproves the proceedings in the trial

and execution of Alexander Arbuthnot and Robert C. Ambrister.

Mr. JOHNSON, of Kentucky, also of the Military Committee, submitted a paper drawn up in the shape of a report by that committee, which, by a majority of one vote, that committee had refused to accept, and the said paper was read, concluding with the expression of the opinion that General Jackson, his officers and men, are entitled to the thanks of the country in terminating the Seminole war.

The report having been read—

Mr. COBB, of Georgia, rose to make a motion, the object of which was to give to the report of the Military Committee, as well as to the substitute presented by a member of that committee, a direction which should insure to it a discussion, as full as was desired, at the present session. For this purpose, he moved to refer them to a Committee of the Whole on the state of the Union. These papers, he said, involved principles of great consequence, on which in some measure depended, as he believed, the character of the nation; they also necessarily involved important questions as to the laws of nations, and as to the constitution of our own country, and ought to have a deliberate consideration.

Mr. FLOYD, of Virginia, was as desirous as the gentleman from Georgia of a deliberate discussion of the subject of these reports; but, if they were referred to a Committee of the Whole on the state of the Union, a motion to go into which was always in order, the House might be taken by surprise, or brought into the discussion entirely without notice, at the motion of any gentleman who wished it. He therefore wished the papers should be referred, as in ordinary cases, to a Committee of the Whole.

Mr. STROTHER, of Virginia, agreed with the gentlemen who had preceded him, that the report should be so disposed of as to insure a full examination of its merits. The subject, he said, was one of considerable interest and excitement, though he was not under the impression that it was one of great magnitude, nor that it carried in its bosom the fate of the nation, as the gentleman from Georgia seemed to suppose, which depended on far other considerations. The best course to pursue in regard to these papers, Mr. S. thought, would be to lay them on the table. Though not of momentous consequence, he said, yet the decision on them was calculated to implicate the character, and perhaps the happiness, of the illustrious individual whose proceedings it was proposed to censure. He would, in regard to any proposition involving the happiness or reputation of any individual, conspicuous or obscure, act with great deliberation. He was therefore opposed to referring this matter to a Committee of the Whole on the state of the Union, thus putting it in the power of any individual to call it up when he pleased, and to precipitate the House into a discussion unadvisedly and unprepared. He was for not hastily acting on a proposition to censure a man who had given celebrity to the arms of his country, and thrown a brighter lustre on the national character.

Mr. POINDEXTER, of Mississippi, said he hoped that the House would never agree to a report, in affirming which the House would be required to forget the wrongs inflicted on us by foreign nations, to overlook the inhuman deeds committed on the frontier of Georgia, and to turn its attention to the laudable object of destroying the reputation of one of its most distinguished citizens. It was not in the point of view in which the gentleman from Georgia had regarded the question; it was not from any regard to the savages of Florida, and their allies, British refugees and Spanish agents, or from a wish to crush that man by the strong arm of power—that man who had so much merited the thanks of his country, that he wished a full and early discussion of the subject. He did not wish it, he said, to be referred to a Committee of the Whole, or to lie on the table and be forgotten. He was not willing that any such report as that from the Military Committee, calculated to ruin the reputation of a man who had rendered so signal services to his country, should be considered as representing the opinion of this House. He was not willing, therefore, that it should remain for a moment on the table, but should undergo a full discussion as early as practicable; which would be insured by referring it to a Committee of the Whole on the state of the Union.

Mr. MERCER, of Virginia, while he congratulated the House on the dignified report which the Military Committee had presented to them, was disposed, in the proceedings on this subject, to act with all necessary deliberation. The only objection he had heard to the proposition to refer the subject to a Committee of the Whole on the state of the Union, was, that it might be called up at any time; this objection, he said, might be entirely obviated by naming a day when it should be called up; and, if a day were not named, the House would always have it in its power, if it chose, to refuse to go into committee, if moved for at too early a day. He should deplore, Mr. M. said, perhaps more than any member of the House, that this should be referred to an ordinary Committee of the Whole, and that the whole session should pass off without an expression, on the part of the House, of its opinion on this subject. With respect to the character of General Jackson, though he would not unnecessarily arraign it, Mr. M. said, he looked, in the view which he took of the importance of this question, to higher objects—to the character of this House and of this nation.

Mr. SMYTH, of Virginia, hoped that the motion of the gentleman from Georgia would prevail. He presumed that the gentlemen adverse to General Jackson were none of them desirous of precipitating the discussion, or taking any advantage, by surprise, of those who approved of his conduct. He supposed that by Monday

next every gentleman who desired to take a part in the discussion would be prepared, and that that day would be agreed on. He said he should, when the discussion came on, attempt to show that all the proceedings of General Jackson were justifiable by the law of nations.

Mr. DESHA, of Kentucky, wished the papers to lie on the table, that the members of the House might have an opportunity of examining them; but, if referred to any committee of the House, he wished the substitute as well as the report to be referred—and that, in their publication, they might go together, that the world should see and understand the views of both sides of the House.

Mr. JOHNSON, of Kentucky, suggested the propriety of a concurrence, on all sides of the House, in the commitment of the report and the amendment to a committee, as proposed. If for no other reason than that the Speaker might wish to participate in the debate, he should approve of that course. The subject had excited considerable sensation, and he hoped every opportunity would be given to members, on all sides of the House, to express their opinions. To debate it now was to take up the time of the House to no useful purpose whatever.

After some further remarks from Messrs. FLOYD, COBB, and STROTHER, in support of their respective opinions, and some conversation on a point of order, the question on referring the report of the Military Committee to a Committee of the Whole on the state of the Union was carried without a division.

On motion of Mr. DESHA, the paper offered by Mr. JOHNSON, of Kentucky, as a substitute, was then referred to the same committee; and

Mr. TALLMADGE gave notice that, if no one else did, he should, on Monday next, move to go into a Committee of the Whole on this subject.

SATURDAY, January 16.

Bank of the United States.

Mr. SPENCER, from the committee appointed on the 30th of November last, to inspect the books and examine into the proceedings of the Bank of the United States, to report thereon, and to report whether the provisions of its charter have been violated or not, made a detailed report thereon; which was read and committed to the Committee of the Whole on the state of the Union. The report concludes as follows:

The committee, then, are of the opinion that the provisions of the charter of the Bank of the United States have been violated in the following instances:

I. In purchasing two millions of public debt, in order to substitute them for two other millions of similar debt, which it had contracted to sell, or had sold in Europe, and which the Secretary of the Treasury claimed the right of redeeming. The facts on this subject, and the views of the transaction entertained by the committee, have been already given.

II. In not requiring the fulfilment of the engagement made by the stockholders on subscribing, to pay the second and third instalments on the stock, in coin and funded debt. The facts on this point are fully before the House, and they establish, beyond all doubt, 1st, that the directors of the bank agreed to receive, and did receive, what they deemed *an equivalent* for coin, in checks upon, and the notes of the bank and other banks to pay specie. This substitution of any equivalent whatever, for the specific things required by the charter, was in itself a departure from its provisions; but, 2d, the notes and checks thus received were not, in all cases, equivalent to coin, because there was not specie to meet them in the bank; 3d, that notes of individuals were discounted and taken in lieu of the coin part of the second instalment, by virtue of a resolution for that purpose, passed before that instalment became due; 4th, that the notes of individuals were taken in many instances, and to large amounts, in lieu of the whole of the second and third instalments, which notes are yet unpaid.

III. In paying dividends to stockholders who had not completed their instalments, the provisions of the charter in that respect were violated.

IV. By the judges of the first and second election allowing many persons to give more than thirty votes each, under pretence of their being attorneys for persons in whose names shares then stood, when those judges, the directors, and officers of the bank, perfectly well knew that those shares really belonged to the persons offering to vote upon them as attorneys. The facts in relation to this violation are in possession of the House, and establish it beyond the reach of doubt.

The committee are of opinion that no other instance of a violation of the charter has been established. In closing this report of a most laborious investigation, the committee observe, that whatever difference of opinion can exist among them as to the results and inferences to be drawn from the facts stated, they unanimously concur in giving, to the preceding statements of facts and abstracts of documents, their sanction. They have not recommended the adoption of any measures to correct the many evils and mischiefs they have depicted, excepting that of the bill before mentioned, because, by the provisions of the charter, the Secretary of the Treasury has full power to apply a prompt and adequate remedy, whenever the situation of the bank shall require it. And if, after the stockholders have become acquainted with the mismanagement of the institution, they shall adopt no means to prevent its continuance, or the directors themselves shall persist in a course of conduct requiring correction, the committee cannot entertain a doubt that the salutary power lodged in the Treasury Department will be exerted, as occasion may require, and with reference to the best interests of the United States.

Government of Florida.

Mr. EDWARDS rose to offer a resolution calling for information in relation to the posts, without the limits of the United States, now in the possession of the United States. The object of his motion was in itself so plain as to need no elucidation. It would be recollected that the law of 1811 authorized the taking possession, on certain contingencies, of that part

of Florida east of the Perdido, and to establish a government therein. One object of the resolution was to ascertain how far, if at all, that law had been carried into effect, &c. The resolution was in the following words:

Resolved, That the President of the United States be requested to cause any information, not already communicated, to be laid before this House, whether Amelia Island, St. Marks, and Pensacola, yet remain in the possession of the United States, and, if so, by what laws the inhabitants thereof are governed; whether articles imported therein from foreign countries are subject to any and what duties, and by what laws; and whether the said duties are collected, and how; whether vessels arriving in the United States from Pensacola and Amelia Island, and in Pensacola and Amelia Island from the United States, respectively, are considered and treated as vessels arriving from foreign countries.

Mr. HOLMES said that the resolution embraced some objects which the Committee of Foreign Relations had had under consideration, that concerning Amelia Island, for example; respecting which they had directed him to make of the Secretary of State all the inquiries embraced in the resolution, and more. That information might be expected to be soon received, and laid before the House. He therefore wished the gentleman to waive his motion for the present.

Mr. EDWARDS said he had no objection, if the committee had asked for the information, (though he still thought it would have been better had the information been specially called for by the House,) to waive his motion for the present, with the reservation of the right to renew it, if the expected information was not laid before the House.

Mr. HOPKINSON suggested that the information which had been required by the Committee of Foreign Relations was limited to Amelia Island, and therefore did not embrace the principal part of the information required by the resolution.

Mr. EDWARDS said, if that were the case, he should certainly not waive his motion. If we are correctly informed by the newspapers, there had been something like a government established at St. Marks and at Pensacola, by the military authority, as well as at the Amelia Island; and he wished to ascertain how far the arrangements of the military authority had been sanctioned by the Executive. Vessels had cleared out and entered at Pensacola; he wished to know whether it had been regarded in this respect as a foreign or domestic port. If civil officers, collectors, &c., had been appointed, he wished to obtain information by what tenure they held their offices, and also the nature of their accountability. If ultimate measures should be found necessary, information would be wanted, without which the House was groping in the dark. He had no other object than to ascertain, officially, the facts on these subjects.

Mr. STROTHER said he never should oppose a resolution calling for information to instruct this House in the discharge of its duty, or that was necessary to enable them to ascertain the manner in which the Executive department had discharged the duties assigned it by the constitution and laws of the country. The stability and integrity of the Government depended upon the right to call for and obtain information; but he objected to this resolution, introduced by his friend from North Carolina, because the information called for had been furnished this House, in that voluminous document laid upon our table upon the subject of the Seminole war. Mr. S. said, if his honorable friend would examine the correspondence between General Jackson and the Secretary of War, he would ascertain that a government has been established at Pensacola, and functionaries appointed to administer the government; a temporary government, confined to the necessary and legitimate purpose of protection to the persons and property of the people inhabiting that region; a proceeding springing from necessity, and to terminate with it. Upon this ground he was opposed to the resolution.

The Seminole War.

The order of the day, on the report of the Committee on Military Affairs respecting the Seminole war, being announced—

The House then went into Committee of the Whole on the state of the Union, to whom that report was committed, Mr. PITKIN in the Chair.

There was some conversation previously about postponing the subject for a day or two; but the House, by a majority of ten or fifteen votes, resolved to take it up.

The report of the Military Committee was read through, concluding with the following resolution:

"*Resolved*, That the House of Representatives of the United States disapproves the proceedings in the trial and execution of Alexander Arbuthnot and Robert C. Ambrister."

Mr. COBB, of Georgia, commenced the debate, by observing, that although he concurred in opinion with the Military Committee, as expressed in their report under consideration, yet he thought they had not gone far enough. There were other matters, arising out of the late Seminole war, which he thought of infinitely greater importance, and, in comparison with which, indeed the trials of Arbuthnot and Ambrister were objects of but secondary consideration. As highly, therefore, as he disapproved the proceedings in the trial of these men, yet as, by the report, the matters to which he had allusion were not presented for consideration, he held in his hand certain resolutions which it was his intention to propose, by way of amendment to the report of the Military Committee. [Mr. COBB here read the amendment, which he subsequently moved.] From these resolutions, the Committee of the Whole would observe that it was his intention to open the whole field of debate, and to present for discussion, not only the trials of these men, but

the capture of the Spanish posts of St. Marks, Pensacola, and Barancas, in which, he believed, there had been a most flagrant breach of the Constitution of the United States. But as, notwithstanding the amendment he was about to propose, the resolution of the Military Committee would stand first in order, he would proceed to make a few remarks as to the subject-matter of that resolution. He thought he could promise that the committee should not be long detained by the observations which he might have the honor to make either upon this resolution or those which he would lay upon the table, as, at that early period of the discussion, it was not necessary to present to the committee any thing more than what he considered the leading points, reserving to himself the right of speaking, as to particulars, at some future period, if he should find it necessary.

In attending to the trials by court-martial of those two Englishmen, the first objects for consideration which presented themselves, were the charges exhibited against them. Reasoning upon the supposition that they were true, he was perfectly at a loss to know what law, martial, municipal, or national, was violated. Against what law had they offended? He was not certain that he perfectly understood what was martial law in this country. Were he to view it in the light that it had been explained and enforced by some, he must be compelled to consider it as of paramount authority indeed; so high in its nature as that it could be made to suspend the constitution itself. He had not yet obtained his consent to give it this omnipotent effect, and he hoped he never should. He had thought, and yet believed, until he could have some proofs to the contrary, that it was contained in that body of laws established by the Congress of the United States for the government of the army, commonly called the "Rules and Articles of War." If he was correct in this opinion, (and he presumed no gentleman would controvert it,) he had searched in vain (and he had used no little industry to discover) for that clause against which Arbuthnot and Ambrister had offended, in the commission of the acts charged against them, and for which they were convicted. It was true, there was a clause subjecting to death those who should be convicted of being "spies." But, although these men, or one of them, was charged with this, yet he was acquitted of that charge, and for that reason it would be unnecessary to take further notice of it. The offence for which they were convicted and suffered death, was that of "exciting and stirring up the Creek Indians to war against the United States and her citizens, they being subjects of Great Britain, with whom the United States are at peace;" "of aiding, abetting, and comforting the enemy, and supplying them with the means of war;" "and leading and commanding the Lower Creeks in carrying on war against the United States." Admit the truth of the facts contained in these charges, are they declared penal in any part of the rules and articles of war? Or are they therein declared to be proper subject matters for trial before a court-martial? If they were not, it followed, as a consequence, that the commanding General had transcended his powers in ordering the court, and that the court itself had stretched its powers to an unwarrantable length, in acting upon matters not cognizable before them. It would be arguing to little purpose to prove, that the crimes contained in these charges were not embraced in the rules and articles of war. It would be sufficient, at present, simply to deny that they were, until those who differed from him in opinion attempted to prove the affirmative of the question.

Mr. C. thought it would be an attempt equally fruitless to prove that the matters charged against these individuals constituted an offence against national law, for which they were answerable before a court-martial. He did not profess to be deeply read in the law of nations. He had, however, searched, in the hope that he could find some justification for this most novel proceeding, all the writers on that subject, upon whose works he had been able to lay his hands. He had commenced and prosecuted this search under the most anxious wish for success. It had been an object of great solicitude with him to rescue both the court and the General who ordered it, from the imputation of injustice. He had been compelled to desist, chagrined and disappointed. If any other gentleman had been fortunate, he should rejoice to learn it. He certainly could have no wish to remain in error.

The next point occupied by Mr. COBB was as to the evidence under which both, or one of these men, were convicted. He should not say much upon it, for he did not intend to analyze it. He had understood, and no doubt correctly, that the rules of evidence, in courts-martial, differed very little, in principle, from those established in the courts of common law. It was so declared, he believed, by the only American authority (Macomb on Martial Law) that he knew any thing of, on that subject. He presumed it would not be denied. But, sir, said he, if we test the evidence produced in those trials by these rules, we shall blush at the shameful perversion of justice therein displayed. The evidence of papers, not produced or accounted for, the *belief* of persons whose testimony of *facts* ought to have been doubted, *hearsay*, and *that* of *Indians*, *negroes* or *others*, who, had they been present, could not have been sworn, were all indiscriminately admitted and acted upon. Miserable, indeed, will be the precedents established by *this* court-martial for *others* which may hereafter be formed! More need not be said on this subject.

Mr. C. next called the attention of the committee to the sentence under which Ambrister was executed. He had strong doubts whether, upon giving a fair construction to the Rules and Articles of War, the proceedings of the court martial ought not to have been laid before the President of the United States before the sen-

tence was carried into effect. But he waived the examination of this question. It seems that the court first sentenced Ambrister to be shot; but one of the members having asked a reconsideration of the sentence, before the proceedings were submitted to the commanding General it was allowed, and another punishment awarded as ignominious in its nature as imagination could well conceive, but which yet spared life. Now, will it be contended that this reconsideration and change of sentence did not, to all intents and purposes, render null and void the first sentence? Can it be said, with any truth, that there was any other sentence than the one last passed in the case? But, unfortunately, the first sentence was not erased from the proceedings of the court. It is there found by the General, when they were submitted to him, and, by a *high stretch* of power, he avails himself of it—"approves the finding and first sentence—disapproves of the reconsideration and last sentence," and directs the man to be executed! To me, sir, said Mr. C., this proceeding has upon its face a cruelty that excites my greatest disapprobation. The last thing to which Mr. C. would call the attention of the committee was the principle by which the commanding General professes to have been governed in ordering the execution of Ambrister, and which, in its extent, as contended by the report of the committee under consideration, applied with equal force to the case of Arbuthnot. It is in these words: "It is an established principle of the law of nations, that any individual of a nation making war against the citizens of another nation, they being at peace, forfeits his allegiance, and becomes an outlaw and a pirate." The Military Committee, in their report, have very properly denied the establishment of any such principle in the law of nations. Sir, said Mr. C., I boldly challenge any man of common sense to prove the existence of such a principle to the extent it is here laid down. Reason, propriety, justice, and humanity, all cry aloud against such a principle! So far as my researches have gone, it is absolutely denied by the writers on national law; and I sincerely hope will be absolutely denied by every member of this committee. If this principle was true, then La Fayette, De Kalb, Pulaski, and a large host of foreigners, who joined the standard of our fathers in the Revolution, and, by their blood, and at the expense of their lives, aided in the establishment of the independence of this nation, were "outlaws and pirates;" and, had they been captured, were subject to have been tried and sentenced to an ignominious death by a court-martial. For, when they entered our service, they were "individuals of a nation at peace" with England, and they, after they joined our arms, "made war upon England and her citizens, and thereby forfeited their allegiance." Sir, is this committee prepared to brand these men with the titles of "outlaws and pirates," by their sanction to this principle? I will not yet believe it.

But, it may be said, that these Englishmen, having "joined a savage nation, who observe no rules, and give no quarter," we have a right to treat them precisely as we might treat the savages whom they have joined, and that we would have a right to put the savages to death, upon a principle of retaliation. Let this position for a moment be admitted, and yet it will be evident that the principle under which we should proceed would be a very different one—to wit, that of retaliation. For even savages cannot regularly be put to death, until they refuse "to observe rules or give quarter." In order that the principle established by General Jackson may be applied, it must undergo a material amendment. Instead of the words in which it is couched, it should read thus—"It is an established principle of the law of nations, that any individual of a nation, joining savages and barbarians who observe no rules and give no quarter, and making war against the citizens of another nation, they being at peace, becomes himself a savage and barbarian, and may be treated as such." Under such a principle, there would have been more justice (humanity being out of the question) in putting Ambrister and Arbuthnot to death.

Mr. C. then proceeded to inquire, whether the commanding General of the American army possessed the power to exercise the right of retaliation? If in its exercise there is any responsibility, he contended it was placed upon the nation. They were accountable to all other nations for the manner in which they conducted their wars. To the nation, therefore, it belonged, to establish the rules of war, by which it would be governed; and the authority by which they were to be established, was that in whose hands was vested the right of declaring war. In their establishment, the character of the nation for justice, for humanity, &c., was deeply involved. Who, he asked, were the legitimate guardians of the character of this nation, but Congress—the war-declaring power? Mr. C. thought he was not singular in this opinion. He believed that the late President of the United States, the virtuous James Madison, was of the same opinion. For when, during the late war, it was thought necessary to apply the retaliatory principle, did he believe himself clothed with power to do it, although Commander-in-chief? No—he believed it was in Congress alone. To Congress he applied for the power, and, by a special act, they conferred it on him. Mr. C. thought this case should be considered as conclusive authority.

TUESDAY, January 19.

The Seminole War.

The House then again resolved itself into a Committee of the Whole, Mr. PITKIN in the Chair, on this subject.

Mr. HOLMES, of Massachusetts, said the gentleman from Georgia (Mr. COBB) having appealed to the common sense of the committee,

he felt himself obliged, having some claim to that very common and vulgar commodity, to attempt to answer the gentleman's call.

This is not, said Mr. H., the only inducement. The very handsome, able, and gentlemanly manner in which that gentleman has supported his resolutions, entitles him to the particular consideration of every member who differs from him, and demands our utmost efforts to combat his arguments and resist the force of his eloquence.

It is not, sir, because General Jackson has acquired so much glory in defence of his country's rights that I defend him—it is not for the splendor of his achievements or the brilliancy of his character. I would not compromit the rights and liberties of my country to screen any man, however respectable. If General Jackson has been ambitious, I would restrain him; if cruel, I would correct him; if he is proud, I would humble him; if he is tyrannical, I would disarm him. And yet, I confess, it would require pretty strong proof to produce conviction that he has intentionally done wrong. At his age of life, crowned with the honors and loaded with the gratitude of his country, what adequate motive could induce him to tarnish his glory by acts of cruelty and revenge?

Nor am I disposed to become the advocate of Executive usurpation. If the President of the United States has encroached upon the rights of the people, or usurped a power not granted by the constitution, it is our duty, as the guardians of those rights, to correct the mischief and preserve the Republic. And yet, it would be difficult to imagine an adequate motive to induce the President to trample upon the constitutional liberties of the people. His life has been constantly devoted to the liberties, prosperity, and honor of his country. He receives his reward in the gratitude and confidence of the people. The chief of the only free people on earth, I could scarcely imagine that he has an inducement to do wrong, much less to prostrate the fabric of freedom which his own hands have contributed to erect.

I assure the gentleman from Georgia that, in endeavoring to anticipate the arguments of the friends of General Jackson and the President, he has not anticipated me. I admit, in the outset, that the President has no right to commence a war, even against Indians. And I further admit, that, if a treaty between this and another nation be violated by the other party, and the violation is not itself an act of war, but such as would justify hostilities on our part, the President has no right to commence these hostilities without the consent of Congress. If, with these admissions, the President and General Jackson cannot be defended, they cannot, in my opinion, be defended at all.

It is, then, incumbent on me to show that the Indians commenced the war. I shall not detain the committee long on this point at present, as I shall be obliged to examine it more particularly in discussing another part of the subject. It cannot, however, sir, have escaped the recollection of the members of this House, that the aggressions of those Seminoles were loudly complained of by the people of Georgia. Scarcely a newspaper from the South but was filled with dismal accounts of Indian massacres; scarcely a breeze but wafted to our ears the dangers, distresses, and murders of the people on the frontiers of Georgia. Were these all groundless rumors and false alarms? Were the Georgians, in fact, the aggressors? The gentleman from Georgia can answer the question.

On the 9th of August, 1814, a treaty was signed at Fort Jackson between the United States and most of the chiefs and warriors of the Creek Nation. By this treaty certain lands were ceded to the United States, and the inhabitants of the frontiers understood that the war was ended. But it was soon found that several of the hostile Creeks, and the Seminoles, had, within the limits of Florida, associated for the purpose of commencing hostilities against the United States. By the instigation and aid of a certain Colonel Nicholls, a fort was erected on the Appalachicola, and within the province of East Florida, to facilitate their hostile designs. At this place were assembled a motley banditti of negroes, Indians, and fugitives from all nations, and trained and instructed in the arts of robbery and murder. The people of the United States soon felt the effects of their vengeance. Several families, including women and children, were barbarously murdered. In 1816 a boat's crew were cruelly butchered, one of whom was tarred, set on fire, and burnt to death. On the 30th of November last, Lieutenant Scott and his party, consisting of about fifty men, women, and children, were murdered in a manner too shocking to describe. In this exigency, what was to be done?

The Constitution of the United States makes the President the Commander-in-chief of the army and of the militia, when called into the service of the United States. It vests in Congress the power to provide for calling out the militia to suppress insurrections and repel invasions. The act of Congress of the 28th of February, 1795, provides that, whenever the United States shall be invaded, or in imminent danger of invasion, the President may call out any portion of the militia to repel the meditated attack, and, to this end, may direct his orders to any officer of the militia, without a requisition upon the Governors of the States. The framers of the constitution, by authorizing the President to repel invasion, did not intend that he should wait until it should have taken place. Should invasion impend, it was essential that the President should have the power to prevent it. The preposterous doctrine that the invasion must take place before the militia can be called for, is, I trust, long since exploded. This act is an exposition of this clause in the constitution, acquiesced in ever since the year 1795. The President, then, may employ the militia without a special authority from Congress, when

there is invasion, or danger of it; and he can use the army as well as the militia. He is their Commander-in-chief, and though the act to which I have just referred does not specially authorize him to employ the standing army for these purposes, yet it is manifest that our regular troops would never have beeen placed on our frontiers in time of peace, if they could not be employed by the President, to repel invasion, without an act of Congress. If the army of the United States, during invasion, were to remain inactive until Congress could be convened to authorize them to act, they would be worse than useless. Though I am not in the habit of placing much reliance on the admissions of my opponents, I trust it will not be insisted that the President has not the power to employ the army for the same purposes as the militia.

The war having been commenced by the Seminoles and their associates, and the President of the United States having the power, by the Constitution and laws of the United States, to meet and repel the enemy, the inquiry is important, on what ground he may meet them. I differ from many gentlemen in regard to the political rights of the Indians. Whatsoever may be their rights in peace, either by natural or conventional law, in war I deem them as sovereign. Their residence within the limits of the United States, limits to which they have never assented, neither brings them within our protection nor entitles us to their allegiance. The laws of the United States have no operation upon them, and if they levy war they are not punishable as traitors. A tribe of Indians, whose territory is exclusively within our limits, may wage war and make peace with us; pursue, capture, and destroy us; send and receive flags; grant and receive capitulations, and are entitled to a reciprocation of every act of civilized warfare, and subject to the same rules of severity and retaliation as other nations. To invade their territory and cross their line is, as to them, passing out of the limits of the United States. And, if General Jackson had no right, in this war, to cross the Florida line, neither had he a right to cross the Indian line within our limits. If there is any force in the argument so often urged on other occasions, that every war of invasion is an offensive war, and one, consequently, which the President could not wage without the authority of Congress; then, it follows, that Congress must declare war before the President can march the militia across the Indian line, even within the limits of the United States. But such a construction of the constitution is totally inadmissible. When war is commenced by savages, it becomes the duty of the President to repel and punish them. To follow them to the line affords us no security. The invasion cannot be effectually repelled but by pursuing them into their own territory, and retaliating on them there. Such has been the uniform construction of the power of the President, ever since the adoption of the constitution. In no instance that I recollect has Congress declared war against an Indian tribe. The defeat of St. Clair, and subsequent victory of Wayne, were on Indian territory. The battle at Tippecanoe (fought by my friend from Ohio, with so much honor to himself and satisfaction to his country) was within the limits of the Indian nation. In neither of these instances was a declaration of war deemed necessary by Congress.

If, then, it be true that this war was commenced by these savages, we have brought General Jackson and his army up to the Florida line, and, I trust, without any material violation of the Constitution or laws of the United States. Let us now stop and examine the ground on the other side before we attempt to pass it.

The territory of Florida, which the General and his troops are about to enter, from St. Marks to Pensacola in length, and from the United States to the Gulf in breadth, comprehends, probably, not less than 10,000 square miles. Spain claims a jurisdiction over this tract, as comprehended within the two provinces; and it includes, I am told, about 3,000 Spaniards in all—2,500 of whom are in and about Pensacola, and the residue scattered on the Choctaw River, and a few trading families on the Appalachicola. The number of Indians there cannot be well ascertained, but far exceeds the white population. The possessions of the Spaniards are exceedingly limited, and their jurisdiction is merely nominal. The Indians have, in fact, the possession and the control.

But suppose we admit that the Spaniards and Indians have a concurrent jurisdiction. This is the most that can be pretended. And upon this hypothesis, what are the rights of the United States? The territory of these Indians is on both sides of the Florida line. Their possessions and residence are transient and ambulatory, without regard to this line. The nation, if such they may be called, is at war with us, and in this war they can occupy their territory in Florida in spite of Spain. Singular, indeed, would it be, if we should be engaged in war with an enemy who had a perfect right to be where we had no right to meet him. Spain claims a jurisdiction to a territory occupied by our enemy; she has no power nor inclination to expel him, and yet it is gravely said this enemy cannot be pursued to this territory without an act of hostility against Spain. Unfortunate, indeed, would be the condition of the United States, if a horde of unprincipled banditti, holding a residence on our borders, could prosecute a cruel and exterminating war upon our citizens, and then take refuge across an ideal line, where the laws of nations forbid us to approach them. Sir, let gentlemen tell me of another instance where your enemy has a right to perfect security against your approach. It would be a war of a peculiar character, where one side only gives the blows.

Why, then, should not General Jackson and his army cross? Will any gentleman point to

me the clause in the Constitution or laws of the United States that forbids him? Nay, more, can any one offer a reason why he should not pass into Florida, which would not equally forbid his crossing the Indian line within the limits of the United States? It would be preposterous and absurd to contend that you could not pursue your enemy to any refuge to which he is entitled. The Seminoles, then, being enemies, and having a right in Florida beyond the control of Spain, the inference is irresistible that you have a right to pursue and fight them there in your own defence.

General Jackson having crossed into Florida, for the purpose of meeting and fighting the Seminoles, what are his duties towards those who profess an allegiance to Spain? The case is peculiar, and, perhaps, stands on its own foundation. It is difficult to illustrate it by analogy. While we are on enemy's, we are, in some sense, on neutral ground. The ocean being the highway of nations, all having concurrent jurisdiction, it is possible a case may there be found affording an illustration. You discover your enemy's fleet at a distance. On approaching it you perceive neutrals intermixed. Some are of a doubtful character, wearing the neutral flag, but exhibiting other symptoms of a belligerent character. Some seem engaged in affording facilities to the enemy to defend themselves or to escape. In such a case you are bound to exercise your discretion, and to capture all those of a suspicious character. Should you mistake, it is not your fault, but the misfortune or folly of the neutral in being found in company with your enemy, in a situation to excite suspicion. A discretion, therefore, must rest with a commander to discriminate. In the ordinary case of invading the country of a civilized nation, the commanding general is obliged to distinguish between the public and private property, and between combatants and non-combatants. There are situations in which it is extremely difficult to determine, and it not unusually happens that this power of discrimination necessarily devolves on the subordinate officer, and even soldiers, whereby many of the innocent and unoffending are made to suffer.

When General Jackson marched his army into a country where he must necessarily find neutrals as well as enemies, the right of discrimination devolved on him. If a Spaniard was found in the ranks of the enemy, aiding and assisting in hostilities, he was bound to consider him as an enemy. If the guns of a fort were turned against him, or the fort used by the Indians as a post of annoyance, he had a right to consider the soldiers there as associated and identified with the enemy, and to wrest from their hands the means of hostility. Even should he mistake, he is not subject to censure, but it is the misfortune of the neutral in being associated with our enemy, and placed in a situation where suspicion might attach. But, sir, I by no means admit that General Jackson needs such an apology in this case. I will prove that the Spaniards in Florida were identified with the Indians, and the posts taken by Jackson were under Indian control. I will prove that the Spanish officers and inhabitants in Florida have conducted most treacherously, pretending to a neutrality which they have constantly violated. I will show to the committee, by proofs incontestable, that the local authorities were the exciters, promoters, and prosecutors of the war, and furnished the means of carrying it on.

I lay Spain out of the question. Poor, miserable, degraded Spain, too weak and palsied to act or think! She has but the shadow of authority there, and, so far from being able to control the Indians, or even her own subjects, the country, as to her, is a perfect derelict. I will ask this committee to go back with me to the year 1813, and from that period to the capture of Pensacola, to witness the Spanish officers exciting the Indians to vengeance, furnishing them with the arms and munitions of war, tamely acquiescing in the most flagrant violations of their pretended neutrality, and suffering the territory to be prostituted to every banditti who might be disposed to annoy or distress the people of the United States.

Sir, before I proceed to an account of these transactions, allow me to subjoin a few remarks in reply to what has been said relative to the conduct of the Executive in engaging in this war. The gentleman from Georgia apprehends that the President has violated the constitution. During the last session of Congress, it was known that this war could not be terminated without marching the troops into Florida. The President of the United States, in his Message of 25th March, and four weeks before the session closed, informed this House that he had issued orders to General Gaines to cross into Florida, to pursue and chastise the enemy, but to respect the Spanish authority where it was maintained. We acquiesced; we appropriated the money to pay the militia, and without a whisper of disapprobation.

Connected with this part of the subject, I regret to be obliged to notice an intimation from the gentleman from Georgia, that General Jackson might possibly have orders from the President different from those communicated to this House. Sir, though the gentleman did not state that he believed this, yet, when a member of this House will intimate that it is even possible that the President of the United States has practised such duplicity, and will endeavor to show evidence of the grounds of such intimation, it becomes our imperious duty to inquire. If the President has given to General Jackson one set of orders, and imposed upon us a different set, he has practised a hypocrisy utterly unpardonable, and he ought to be exposed to the indignation of the American people. What, then, I repeat, can be the ground of this suggestion? The gentleman quotes the letter of the Secretary of War to Governor Bibb, of the 13th May, stating that General Jackson had full powers to prosecute the war at his discretion,

and, as we have seen no such full power to General Jackson, he leaves us to infer that the document is withheld. A brief statement of the facts will, I trust, explain this mystery, even to the satisfaction of the gentleman from Georgia. The Secretary's letter of 16th December last authorizes Gaines to cross into Florida, under the restriction as to Spanish fortresses. His letter to Jackson, of the 26th of the same month, directs him, to whom the command was now transferred, to concentrate his forces and adopt the necessary measures to bring the war to a speedy conclusion. Governor Bibb, not knowing of the orders to Gaines, on the 15th April, 1818, writes to the Secretary that he has no authority to pass the Florida line, and wishing for orders. The Secretary, on the 13th May, replied, that the orders to Gaines to cross were sufficient for him, and then adds, that General Jackson had full powers to conduct the war. Taking all these letters together, can there be a doubt of their meaning? The authority to cross was that given to Gaines and transferred to Jackson on his assuming the command; and the full power, mentioned in the letter to Bibb, was that vested in Jackson by the letter of the 26th December, and meant and intended nothing more than that Jackson was Commander-in-chief in that quarter, and that his powers were sufficiently extensive to accomplish the object of his appointment. Can gentlemen find in all this sufficient ground to suspect the President of fraudulently suppressing a document? Were the gentleman a judge or juror, could he find in this sufficient to convict, or even to cast a well-grounded suspicion upon the meanest wretch who crawls in the filth of society? And yet this is offered as ground of inquiry against your President! Sir, is it liberal, is it candid, is it charitable, is it magnanimous?

Sir, who are we? Are we the people, or, like the President, the servants of the people? And, should we suggest such suspicions on such evidence, may not these same people call us to an account for a malicious prosecution without probable cause against their President and friend? I do not profess to predict what would be their decision, but I confess I should be unwilling to submit to them such a question on such evidence.

Mr. T. M. NELSON, of Virginia, said it had been his intention, when the Committee of the Whole on the state of the Union first took up the report which was now the subject of deliberation, to have stated briefly the view taken by the majority of the Military Committee who concurred in the report; but, not having been so fortunate as to get the floor, he had been obliged to delay doing so until now. I should not, said he, have obtruded any remarks upon you now, sir, had the report the aid of the chairman, who has so faithfully presided over the Military Committee ever since he has occupied that station; but, I regret to say, we differed in opinion on this occasion.

I believe I am correct in stating that that part of the subject to which the report is confined, is the only one on which a majority of the committee could be united; and, as the other branch of it might fairly be considered to be in the hands of another committee of this House, a reason was found for passing it over in silence. I moreover acknowledge that, although I did, previous to the decision of the committee, disapprove the proceedings against Pensacola and Barancas, as unauthorized and unnecessary, I felt a doubt whether the capture of St. Marks might not be justified, upon the plea of necessity; but that is dispelled by a more minute examination of the documents. A reference to the letter from the commanding officer at St. Marks, to General Jackson, bearing date April 7, 1818, to be found page 67 of the documents on the Seminole war, and which had escaped my recollection, shows that there was no necessity for the capture of that post, to preserve it from falling into the hands of the Indians; the apprehension of which seems to be the original cause of General Jackson's design to take it. And, sir, if for the peace of the United States, it was important that St. Marks should not fall into the hands of the enemy, the proposition made to General Jackson, in the letter I have alluded to, to leave a force in its vicinity, with which the Spanish troops would co-operate, to effect that object, appears to me amply sufficient for every purpose of security and defence. General Jackson thought differently; he thought "St. Marks was necessary, as a depot, to insure success, and he occupied it with an American force."

The gentleman (Mr. HOLMES) who preceded me in this debate, has gone into a long train of reasoning to show that Spain has given us just cause of war, and thence infers that General Jackson had a right to take possession of the Spanish garrisons in West Florida. Sir, I am not the apologist of Spain; I wish to be distinctly understood to say, that to Spain we are under no obligations for General Jackson's conduct while in her territory. When the gentleman, who is chairman of the Committee on Foreign Relations, shall offer a proposition to go to war with Spain, it will be time enough to inquire whether we have just cause of war against her; but there would be many other points of discussion, besides the mere justification or cause of war. Would it be politic, would it be magnanimous, to make war upon a degraded, enfeebled enemy? These are questions which I am not called upon at this time to decide. Sir, the question now before us is, whether a war has existed between the United States and Spain, and by whose authority. That a war has been prosecuted by General Jackson, against the Spanish authority in West Florida, can be established by his own representation. I refer you to the capitulation entered into by General Jackson and the Governor of Pensacola, "which, with the exception of one article, amounts to a complete cession of the

country to the United States," to use the General's own language. How, sir, was this effected? By the American Army, commanded by General Jackson. Was it in compliance with the wish and desire of the Spanish commander? No, sir; it was in direct opposition to his warning, that he would repel force by force; which General Jackson says "was so open an indication of hostile feeling" on the part of the Governor, that he no longer hesitated on the means to be adopted. "I marched for and entered Pensacola, with only the show of resistance." In his letter of the 2d of June, to the Secretary of War, he details all the minutia of investing the fortress of Barancas; of making a lodgment under the fire of the garrison; of mounting nine-pounder and howitzer batteries; and such other incidents as are attendant on most battles between civilized nations. Mr. Chairman, if this be not war, I have always misunderstood the term, although three years a soldier during what was then called war.

General Jackson, speaking of the captured garrison, says, "the terms were more favorable than a conquered enemy would have merited." He goes on, in the same letter, to state the kind of government he had established, appointing revenue and other officers, putting the revenue laws of the United States in force! By what authority has all this been done, Mr. Chairman? Has it been the effect of any act of Congress, where the power alone is vested by the constitution? It is not necessary to refer to that instrument to show, that to Congress alone belongs the war-making power; every gentleman who hears me knows it to be so; nor will I consent to partition it. The inevitable result of every gentleman's unbiassed inquiry will be, that a war has been waged against a foreign power by the United States without the sanction of Congress, where alone the right and the power constitutionally exists. And, in this act of war, I witness, to regret and deplore, the most unqualified infraction of the constitution that has ever occurred since its adoption. Shall we, sir, who represent the sovereignty of the nation, tamely fold our arms and acquiesce in the violation of that sacred instrument, which by our oaths and our interests we are bound to support and maintain? I trust not. Let us apply the only remedy in our power, censure the proceedings, and enact other laws which cannot be misconstrued. I fear even this remedy will prove inefficient; the constitution, to my mind, is so plain and explicit on this point, that he who runs may read.

Mr. JOHNSON, of Virginia, said it was with sensations very different from those which are pleasurable, that he entered on the investigation of the subject which claimed the attention and deliberation of the committee. To be compelled, said he, to investigate the conduct of the high and distinguished officers of the Government, when warned and admonished by every fact which meets my eye, that I shall be compelled to disapprove that conduct, can never be to me a pleasurable duty. As an American citizen, as the Representative of a portion of the people of the United States, it would be the pride and pleasure of my heart to be enabled always to prove the officers of my Government right, and to prove the enemies of my country and the enemies of liberty wrong. Before I proceed, sir, I must notice a remark made by the honorable gentleman from Massachusetts, (Mr. HOLMES.) I am sorry that I do not see the honorable gentleman in his seat. [Mr. HOLMES rose.] He remarked that a malicious prosecution had been commenced against the President of the United States. I do not precisely understand the gentleman. By whom has this malicious prosecution been commenced? [Here Mr. HOLMES rose and explained. He said the remark was intended as a reply to an observation made on yesterday by an honorable gentleman from Georgia, (Mr. COBB,) who seemed to insinuate that some instruction given to General Jackson had been suppressed.] Mr. Chairman, I hold it to be a fundamental principle, that every officer of this Government, from the highest to the lowest, is responsible to the people for the manner in which he has discharged the duties of his office. It is on this principle that the Government depends for its perpetuity—for its capacity to secure to the people of the United States peace, prosperity, liberty, and happiness. Is there any gentleman who hears me that will question the truth of this political maxim? Is there any officer, however distinguished by station, or the splendor of his public services, who is unwilling to submit the investigation of his public acts to a candid, deliberate, and decorous investigation by the Representatives of the people? If there be any such officer, I pronounce him a stranger, an alien to the affections of the people, and that it is time to get rid of him. The moment that any officer of this Government denies that he is responsible for the faithful and correct discharge of his public duties, from that moment he becomes dangerous. Sir, I am arguing this question on abstract principles. I have no reference to individuals; I have no feelings to gratify. I presume that a high-minded honorable man, so far from evading an investigation of his public conduct, the moment he discovered the slightest shade of suspicion hovering over the pure, faithful, and legal discharge of his public duties, would court investigation; that he would present himself at the bar of the public, and demand an investigation of his conduct.

Had General Jackson the right to capture Pensacola and the Barancas? Sir, I wish to treat this question with the most perfect candor and fairness. To save the trouble of frequent references to books, I have transcribed from Vattel's Law of Nations the strongest principles in favor of the course pursued by the Commander-in-chief. I have no question that there are copies of Vattel's Law of Nations in the House. If any gentleman doubts the correctness of the quotations, I hope he will compare

the text with the original. It is laid down by Vattel, page 410, that "extreme necessity may even authorize the temporary seizure of a place (in a neutral country) and the putting a garrison therein for defending itself against an enemy, or preventing him in his designs of seizing this place when the sovereign is not able to defend it. But when the danger is over, it must be immediately surrendered." Did this necessity exist? Was the existing state of affairs such as would have authorized a commander, possessed of plenary power, to have captured Pensacola and the Barancas? In order to ascertain the facts necessary to a correct decision of this important question, I beg permission to refer the honorable committee to the correspondence of General Jackson with the Governor of Pensacola and the Secretary of War. In the letter of General Jackson, of the 2d June, 1818, to the Secretary of War, will be found the following statement: "The terms are more than a conquered enemy would have merited, but, under the peculiar circumstances of the case, my object obtained, there was no motive for wounding the feelings of those whose military pride or honor had prompted to the resistance made. The 'articles, with but one condition, amount to a complete cession to the United States of that portion of the Floridas hitherto under the Government of Don Jose Massot.' Though the Seminole Indians have been scattered, and, literally so, driven and reduced, and no longer to be viewed as a formidable enemy, yet, as there are many small marauding parties, supposed to be concealed in the swamps of Perdido, Choctawhatchy, and Chapouly, who might make occasional and sudden inroads on our frontier settlers, massacreing women and children, I have deemed it advisable to call into service for six months, if not sooner discharged, two companies of volunteer rangers, under Captains McGirt and Boyles, with instructions to scour the country between the Mobile and Appalachicola Rivers, exterminating every hostile party who dare resist, and will not surrender, and remove with their families, above the 31st degree of latitude." In this letter of the 25th of May, 1818, from General Jackson to Don Jose Massot, commanding the Barancas, will be found the following important statement of facts: "I have only to repeat that the Barancas must be occupied by an American garrison; and, again, to tender you the terms offered, if amicably surrendered. Resistance would be a wanton sacrifice of blood, for which you and your garrison will have to atone. You cannot expect to defend yourself successfully, and the first shot from your fort must draw down upon you the vengeance of an irritated soldiery. I am well advised of your strength, and cannot but remark on the inconsistency of presuming yourself capable of resisting an army which has conquered the Indian tribes, too strong, agreeably to your own acknowledgment, to be controlled by you."

Mr. Chairman, after this statement of facts by the commanding General, permit me to inquire whether any member of this committee can believe that this extreme necessity existed, which would authorize a General, in a neutral country, temporarily to seize a place and put a garrison therein, for defending himself against the enemy, or preventing him in his designs of seizing this place. What, sir! after the Indian tribes had been conquered, with whom was the General waging war? Not with Spain. Not with the Indian tribes, because these tribes he had subdued and conquered. Where, then, was the necessity, the urgent and extreme necessity, which would have justified an absolute sovereign, on whose fiat depended war and peace, in thus forcibly possessing himself of these places and posts in a neutral country?

I proceed to examine into the propriety of the course pursued on the trial and execution of Arbuthnot and Ambrister. It is laid down by Vattel, p. 416: "An enemy not to be killed after ceasing to resist." In the same page: "A particular case excepted. Yet, as a prince or his general has a right of sacrificing the life of his enemies to his safety, and that of his men, if he is engaged with an inhuman enemy, who frequently commits enormities, he appears to have a right of refusing life to some of the prisoners he may take, and of treating them as his were treated; but Scipio's generosity is rather to be imitated." Did Arbuthnot and Ambrister come within the particular exception? I beg attention to the careful and particular manner in which this distinguished writer lays down this important principle. The prince, for his own safety, appears to have the right to take the life of his prisoner. The general, for his own safety, and that of his men, appears to have the right to take the life of his prisoner. This humane author seems disposed to guard this dangerous principle as effectually as possible. It presents two distinct propositions. The general, when in the field, at a distance from his government, when his safety and that of his men require it, appears (in the words of the author) to have the right to take the life of his prisoner. To justify the general in exercising this high and important power of denying to an unfortunate captive life, the safety of the general and his men must really require the sacrifice. I can scarcely believe that it will be pretended that the safety of the general or his men required the execution of these prisoners. Did, then, the safety of the prince (that is, in this country, the people) require the execution of these men? Was it necessary to offer them up on the altar of public safety—to hold them up as a terrible example to future instigators and abettors of Indian wars? If so, their fate should have been referred to the people; that is, to their representatives—to the Congress of the United States. The commanding general had no right, no authority, to decide the question whether the safety of the people required the sacrifice of these captives. We are told—and very seriously told—that this execution of prisoners may be justified on the principles of

retaliation. What, retaliate the cruelties and shocking barbarities of savages! Not precisely that sort of retaliation. You execute individuals, not under the authority of the law of nations, during the continuance of war, having given notice to the enemy of the particular acts of inhumanity which you mean to retaliate; not for the purpose of punishing, through these individuals, the nation with which they are identified and fighting, but to punish them, as individuals, for their crimes—the crimes of aiding and abetting and instigating Indian tribes to war upon us; not as an example to operate on nations, but on individuals. And we are seriously and gravely informed, by honorable gentlemen, that an American general has authority to execute individuals for individual offences, as a warning to other individuals, without the form of trial, and even contrary to the sentence of the court, detailed by the general himself, for the purpose of trying the offenders. It is a doctrine unsupported by precedent and law, and is shocking to the principles of humanity. It may be said, as it was remarked the other day by a gentleman from Virginia, (Mr. NELSON,) that this is a sympathy for miscreants—a sympathy resulting from morbid sensibility—a sympathy for British subjects. It is not so, Mr. Chairman. I have no sympathy for British subjects. When I look at yon ruin, (pointing to the Capitol;) when I recollect the massacre at the River Raisin, Frenchtown, and many other places in the United States, during the late war, I recognize in the late British forces, an enemy not less cruel and savage than the Seminole Indians—the outlawed Red Sticks. Acts of wanton and shocking cruelty occur to me, at which my soul sickens, and which I should have rejoiced to see retaliated on the most distinguished officer in the British army. What has been the opinion, as deliberately expressed by this Government, on the subject of retaliation? Did the highest officer in this Government, during the late war—the Commander-in-chief of your Army—the President of the United States—consider himself vested with authority to retaliate the acts of cruelty perpetrated by the enemy, or those threatened? The answer will be furnished by referring to the act of Congress, passed during that war, for the express purpose of authorizing the President to retaliate. What has been, since the period of our independence, the uniform and unvarying policy pursued by this Government towards the Indian tribes? Has it been a policy tempered by mercy, brightened by generosity, and ameliorated by Christianity? Have we been constantly engaged in the humane work of civilizing them—of sending emissaries among them to preach the Gospel—to distribute the copies of the Bible collected by different societies? Is this policy to be suddenly changed, under the auspices of General Jackson? Shall we, at the close of a war of extermination, go through the ceremony of appointing committees to meet members from the Society of Friends, to devise the means of civilizing this unfortunate, misguided, and deluded race of beings? Such committees have been appointed during the present session. I have seen members of the Society of Friends giving their willing attendance. But Arbuthnot and Ambrister were Christian savages; they were worse than the Indians; they were the exciters and instigators of the war; they deserved death. In a moral point of view, I admit that the instigator to acts of wickedness, and of dark, malignant, and criminal character, is worse than the actor. The question recurs, Had the General, on his own authority, without trial, and against the sentence of the court, the right to take the life of his prisoner—a prisoner completely in his power—from whose hands the weapons of death—the tomahawk and the scalping knife—had been stricken? Were these men, according to any known principle of the law of nations, subject to any other or different treatment, than the subjects or citizens of the nation with which they had identified themselves, and by whose sides they were fighting? Most certainly not.

WEDNESDAY, January 20.

The Seminole War.

The House again resolved itself into a Committee of the Whole on the state of the Union, (Mr. PITKIN in the Chair,) on the report of the Military Committee, disapproving the trial and execution of Arbuthnot and Ambrister, with the amendments proposed thereto.

Mr. CLAY (Speaker) rose. In rising to address you, sir, said he, on the very interesting subject which now engages the attention of Congress, I must be allowed to say, that all inferences, drawn from the course which it will be my painful duty to take in this discussion, of unfriendliness to either the Chief Magistrate of the country, or to the illustrious military chieftain, whose operations are under investigation, will be wholly unfounded. Towards that distinguished captain, who has shed so much glory on our country, whose renown constitutes so great a portion of its moral property, I never had, I never can have, any other feelings than those of the most profound respect, and of the utmost kindness. With him my acquaintance is very limited, but, so far as it has extended, it has been of the most amicable kind. I know, said Mr. C., the motives which have been, and which will again be, attributed to me, in regard to the other exalted personage alluded to. They have been, and will be, unfounded. I have no interest, other than that of seeing the concerns of my country well and happily administered. It is infinitely more gratifying to behold the prosperity of my country advancing, by the wisdom of the measures adopted to promote it, than it would be to expose the errors which may be committed, if there be any, in the conduct of its affairs. Mr.

C. said, little as had been his experience in public life, it had been sufficient to teach him, that the most humble station is surrounded by difficulties and embarrassments. Rather than throw obstructions in the way of the President, he would precede him, and pick out those, if he could, which might jostle him in his progress —he would sympathize with him in his embarrassments, and commiserate with him in his misfortunes. It was true, that it had been his mortification to differ with that gentleman on several occasions. He might be again reluctantly compelled to differ with him; but he would, with the utmost sincerity, assure the committee, that he had formed no resolution, come under no engagements, and that he never would form any resolution, or contract any engagement, for systematic opposition to his Administration, or to that of any other Chief Magistrate.

Mr. C. begged leave further to premise, that the subject under consideration presented two distinct aspects, susceptible, in his judgment, of the most clear and precise discrimination. The one he would call its foreign, the other its domestic, aspect. In regard to the first, he would say, that he approved entirely of the conduct of his Government, and that Spain had no cause of complaint. Having violated an important stipulation of the Treaty of 1795, that power had justly subjected herself to all the consequences which ensued upon the entry into her dominions, and it belonged not to her to complain of those measures which resulted from her breach of contract; still less had she a right to examine into the considerations connected with the domestic aspect of the subject.

What were the propositions before the committee? The first in order was that reported by the Military Committee, which asserts the disapprobation of this House of the proceedings in the trial and execution of Arbuthnot and Ambrister. The second, being the first contained in the proposed amendment, was the consequence of that disapprobation, and contemplates the passage of a law to prohibit the execution hereafter of any captive, taken by the army, without the approbation of the President. The third proposition was, that the House disapproves of the forcible seizure of the Spanish posts, as contrary to orders, and in violation of the constitution. The fourth proposition, as the result of the last, is, that a law should pass to prohibit the march of the army of the United States, or any corps of it, into any foreign territory, without the previous authorization of Congress, except it be in fresh pursuit of a defeated enemy. The first and third were general propositions, declaring the sense of the House in regard to the evils pointed out; and the second and fourth proposed the legislative remedies against the recurrence of those evils.

It would be at once perceived, Mr. C. said, by this simple statement of the propositions, that no other censure was proposed against General Jackson himself, than what was merely consequential. His name even did not appear in any one of the resolutions. The Legislature of the country, in reviewing the state of the Union, and considering the events which have transpired since its last meeting, finds that particular occurrences, of the greatest moment, in many respects, had taken place near our southern border. He would add, that the House had not sought, by any officious interference with the duties of the Executive, to gain jurisdiction over this matter. The President, in his message at the opening of the session, communicated the very information on which it is proposed to act. He would ask, for what purpose? That we should fold our arms, and yield a tacit acquiescence, even if we supposed that information disclosed alarming events, not merely as it regards the peace of the country, but in respect to its constitution and character? Impossible. In communicating these papers, and voluntarily calling the attention of Congress to the subject, the President must himself have intended that we should apply any remedy that we might be able to devise. Having the subject thus regularly and fairly before us, and proposing merely to collect the sense of the House upon certain important transactions which it discloses, with the view to the passage of such laws as may be demanded by the public interest, he repeated, that there was no censure anywhere, except such as was strictly consequential upon our legislative action. The supposition of every new law, having for its object to prevent the recurrence of evil, is, that something has happened which ought not to have taken place, and no other than this indirect sort of censure would flow from the resolutions before the committee.

Having thus given his view of the nature and character of the propositions under consideration, Mr. C. said he was far from intimating, that it was not his purpose to go into a full, a free, and a thorough investigation of the facts and of the principles of law, public, municipal, and constitutional, involved in them. And, whilst he trusted he should speak with the decorum due to the distinguished officers of the Government whose proceedings were to be examined, he should exercise the independence which belonged to him as a representative of the people, in freely and fully submitting his sentiments.

In noticing the painful incidents of this war, it was impossible not to inquire into its origin. He feared that would be found to be the famous treaty of Fort Jackson, concluded in August, 1814; and he asked the indulgence of the Chairman that the Clerk might read certain parts of that treaty. [The Clerk of the House having accordingly read as requested, Mr. C. proceeded.] He had never perused this instrument until within a few days past, and he had read it with the deepest mortification and regret. A more dictatorial spirit he had never seen displayed in any instrument. He would challenge

an examination of all the records of diplomacy, not excepting even those in the most haughty period of imperious Rome, when she was carrying her arms into the barbarian nations that surrounded her; and he did not believe a solitary instance could be found of such an inexorable spirit of domination pervading a compact purporting to be a treaty of *peace*. It consisted of the most severe and humiliating demands—of the surrender of large territory—of the privilege of making roads through even what was retained—of the right of establishing trading-houses—of the obligation of delivering into our hands their prophets. And all this, of a wretched people, reduced to the last extremity of distress, whose miserable existence we had to preserve by a voluntary stipulation to furnish them with bread! When even did conquering and desolating Rome fail to respect the altars and the gods of those whom she subjugated! Let me not be told that these prophets were impostors, who deceived the Indians. They were *their* prophets—the Indians believed and venerated them, and it is not for us to dictate a religious belief to them. It does not belong to the holy character of the religion which we profess, to carry its precepts, by force of the bayonet, into the bosoms of other people. Mild and gentle persuasion was the great instrument employed by the meek founder of our religion. We leave to the humane and benevolent efforts of the reverend professors of Christianity to convert from barbarism those unhappy nations yet immersed in its gloom. But, sir, spare them their prophets! Spare their delusions! Spare their prejudices and superstitions! Spare them even their religion, such as it is, from open and cruel violence. When, sir, was that treaty concluded? On the very day, after the protocol was signed, of the first conference between the American and British Commissioners, treating of peace, at Ghent. In the course of that negotiation, pretensions so enormous were set up, by the other party, that, when they were promulgated in this country, there was one general burst of indignation throughout the continent. Faction itself was silenced, and the firm and unanimous determination of all parties was, to fight until the last man fell in the ditch, rather than submit to such ignominious terms.

What a contrast is exhibited between the contemporaneous scenes of Ghent, and Fort Jackson! What a powerful argument would the British Commissioners have been furnished with, if they could have got hold of that treaty! The United States demand!—the United States demand!—is repeated five or six times. And what did the preamble itself disclose? That two-thirds of the Creek nation had been hostile, and one-third only friendly to us. Now, he had heard (he could not vouch for the truth of the statement) that not one hostile chief signed the treaty. He had also heard that perhaps one or two of them had. If the treaty really were made by a minority of the nation, it was not obligatory upon the whole nation. It was void, considered in the light of a national compact. And, if void, the Indians were entitled to the benefit of the provision of the ninth article of the Treaty of Ghent, by which we bound ourselves to make peace with any tribes with whom we might be at war on the ratification of the treaty, and restore to them their lands as they held them in 1811. Mr. C. said he did not know how the honorable Senate, that body for which he had so high a respect, could have given their sanction to the Treaty of Fort Jackson, so utterly irreconcilable as it is with those noble principles of generosity and magnanimity which he hoped to see this country always exhibit, and particularly towards the miserable remnant of the aborigines. It would have comported better with those principles to have imitated the benevolent policy of the founder of Pennsylvania, to have given to the Creeks, conquered as they were, even if they had made an unjust war upon us, the trifling consideration, to them an adequate compensation, which he paid for their lands. That treaty, Mr. C. said, he feared, had been the main cause of the recent war. And if it had been, it only added another melancholy proof to those with which history already abounds, that hard and unconscionable terms, extorted by the power of the sword and the right of conquest, served but to whet and stimulate revenge, and to give to old hostilities, smothered, not extinguished, by the pretended peace, greater expansion and more ferocity. A truce thus patched up with an unfortunate people, without the means of existence—without bread—is no real peace. The instant there is the slightest prospect of relief from such harsh and severe conditions, the conquered party will fly to arms, and spend the last drop of blood rather than live in such degraded bondage. Even if you again reduce him to submission, the expenses incurred by this second war, to say nothing of the human lives that are sacrificed, will be greater than what it would have cost you to have granted him liberal conditions in the first instance. This treaty, he repeated it, was, he apprehended, the cause of the war. It led to those excesses on our southern borders which began it. Who first commenced them it was, perhaps, difficult to ascertain. There was, however, a paper on this subject, communicated at the last session by the President, that told, in language so pathetic and feeling, an artless tale—a paper that carried such internal evidence, at least, of the belief of the authors of it, that they were writing the truth, that he would ask the favor of the committee to allow him to read it. I should be very unwilling, Mr. C. said, to assert, in regard to this war, that the fault was on our side—but he feared it was. He had heard that that very respectable man, now no more, who once filled the executive chair of Georgia, and who, having been agent of Indian affairs in that quarter, had the best opportunity of judging of the origin of this war, deliberately pronounced it as his

opinion that the Indians were not in fault. Mr. C. said that he was far from attributing to General Jackson any other than the very slight degree of blame which attached to him as the negotiator of the Treaty of Fort Jackson, and which would be shared by those who subsequently ratified and sanctioned that treaty. But if there were even a doubt as to the origin of the war, whether we were censurable or the Indians, that doubt would serve to increase our regret at any distressing incidents which may have occurred, and to mitigate, in some degree, the crimes which we impute to the other side. He knew, he said, that, when General Jackson was summoned to the field, it was too late to hesitate—the fatal blow had been struck in the destruction of Fowl Town, and the dreadful massacre of Lieutenant Scott and his detachment; and the only duty which remained to him was to terminate this unhappy contest.

The first circumstance which, in the course of his performing that duty, fixed our attention, had, Mr. C. said, filled him with regret. It was the execution of the Indian chiefs. How, he asked, did they come into our possession? Was it in the course of fair and open and honorable war? No; but by means of deception—by hoisting foreign colors on the staff from which the stars and stripes should alone have floated. Thus ensnared, the Indians were taken on shore, and without ceremony, and without delay, were hung. Hang an Indian! We, sir, who are civilized, and can comprehend and feel the effect of moral causes and considerations, attach ignominy to that mode of death. And the gallant, and refined, and high-minded man, seeks by all possible means to avoid it. But what cares an Indian whether you hang or shoot him? The moment he is captured he is considered by his tribe as disgraced, if not lost. They, too, are indifferent about the manner in which he is despatched. But, Mr. C. said, he regarded the occurrence with grief, for other and higher considerations. It was the first instance that he knew of, in the annals of our country, in which retaliation, by executing Indian captives, had ever been deliberately practised. There may have been exceptions, but, if there were, they met with contemporaneous condemnation, and have been reprehended by the just pen of impartial history. The gentleman from Massachusetts may tell me, if he pleases, what he pleases about the tomahawk and scalping-knife; about Indian enormities, and foreign miscreants and incendiaries. I, too, hate them; from my very soul I abominate them. But I love my country and its constitution; I love liberty and safety, and fear military despotism more even than I hate these monsters. The gentleman, in the course of his remarks, alluded to the State from which I have the honor to come. Little, sir, does he know of the high and magnanimous sentiments of the people of that State if he supposes they will approve of the transaction to which he referred. Brave and generous, humanity and clemency towards a fallen foe constitute one of their noblest characteristics. Amidst all the struggles for that fair land between the natives and the present inhabitants, Mr. C. said he defied the gentleman to point out one instance in which a Kentuckian had stained his hand by—nothing but his high sense of the distinguished services and exalted merits of General Jackson prevented him from using a different term—the execution of an unarmed and prostrate captive. Yes, said Mr. C., there was one solitary exception, in which a man, enraged at beholding an Indian prisoner, who had been celebrated for his enormities, and who had destroyed some of his kindred, plunged his sword into his bosom. The wicked deed was considered as an abominable outrage when it occurred, and the name of the man had been handed down to the execration of posterity. I deny your right thus to retaliate on the aboriginal proprietors of the country; and unless I am utterly deceived, it may be shown that it does not exist. But, before I attempt this, said Mr. C., allow me to make the gentleman from Massachusetts a little better acquainted with those people, to whose feelings and sympathies he had appealed through their representative. During the late war with Great Britain, Colonel Campbell, under the command of my honorable friend from Ohio, (Gen. Harrison,) was placed at the head of a detachment consisting chiefly, he believed, of Kentucky volunteers, in order to destroy the Mississinaway towns. They proceeded and performed the duty, and took some prisoners. And here is evidence of the manner in which they treated them. [Here Mr. C. read the general orders issued on the return of the detachment.*] I hope, sir, the honorable gentleman will be now able better to appreciate the character and conduct of my gallant countrymen than he appears hitherto to have done.

But, sir, I have said that you have no right to practise, under color of retaliation, enormities on the Indians. I will advance, in support of this position, as applicable to the origin of all law, the principle, that, whatever has been the custom, from the commencement of a subject, whatever has been the uniform usage, coeval and coexistent with the subject to which it relates, becomes its fixed law. Such was the foundation of all common law; and such, he believed, was the principal foundation of all public or international law. If, then, it could

* The following is the extract which Mr. C. read.

"But the character of this gallant detachment, exhibiting, as it did, perseverance, fortitude, and bravery, would, however, be incomplete, if, in the midst of victory, they had forgotten the feelings of humanity. It is with the sincerest pleasure that the General has heard that the most punctual obedience was paid to his orders, in not only saving all the women and children, but in sparing all the warriors who ceased to resist; and that, even when vigorously attacked by the enemy, the claims of mercy prevailed over every sense of their danger, and this heroic band respected the lives of their prisoners. Let an account of murdered innocence be opened in the records of Heaven against our enemies alone. The American soldier will follow the example of his Government, and the sword of the one will not be raised against the fallen and the helpless, nor the gold of the other be paid for scalps of a massacred enemy."

be shown that from the first settlement of the colonies, on this part of the American continent, to the present time, we have constantly abstained from retaliating upon the Indians the excesses practised by them towards us, we were morally bound by this invariable usage, and could not lawfully change it without the most cogent reasons. So far as his knowledge extended, he said that, from the first settlement at Plymouth or at Jamestown, it had not been our practice to destroy Indian captives, combatants or noncombatants. He knew of but one deviation from the code which regulated the warfare between civilized communities, and that was the destruction of Indian towns, which was supposed to be authorized upon the ground that we could not bring the war to a termination but by destroying the means which nourished it. With this single exception, the other principles of the laws of civilized nations are extended to them, and are thus made law in regard to them. When did this humane custom, by which, in consideration of their ignorance and our enlightened condition the rigors of war were mitigated, begin? At a time when we were weak, and they were comparatively strong; when they were the lords of the soil, and we were seeking, from the vices, from the corruptions, from the religious intolerance, and from the oppressions of Europe, to gain an asylum among them. And when is it proposed to change this custom, to substitute for it the bloody maxims of barbarous ages, and to interpolate the Indian public law with revolting cruelties? At a time when the situation of the two parties is totally changed—when we are powerful and they are weak: at a time when to use a figure drawn from their own sublime eloquence, the poor children of the forest have been driven by the great wave which has flowed in from the Atlantic Ocean to almost the base of the Rocky Mountains, and overwhelming them in its terrible progress, has left no other remains of hundreds of tribes, now extinct, than those which indicate the remote existence of their former companion, the Mammoth of the New World! Yes, sir, it is at this auspicious period of our country, when we hold a proud and lofty station, among the first nations of the world, that we are called upon to sanction a departure from the established laws and usages which have regulated our Indian hostilities. And does the honorable gentleman from Massachusetts expect, in this august body, this enlightened assembly of Christians and Americans, by glowing appeals to our passions, to make us forget our principles, our religion, our clemency, and our humanity?

Why was it, Mr. C. asked, that we had not practised towards the Indian tribes the right of retaliation, now for the first time asserted in regard to them? It was because it is a principle, proclaimed by reason and enforced by every respectable writer on the law of nations, that retaliation is only justifiable as calculated to produce effect in the war. Vengeance was a new motive for resorting to it. If retaliation will produce no effect on the enemy, we are bound to abstain from it by every consideration of humanity and of justice. Will it, then, produce effect on the Indian tribes? No; they care not about the execution of those of their warriors who are taken captive. They are considered as disgraced by the very circumstance of their captivity, and it is often mercy to the unhappy captive to deprive him of his existence. The poet evinced a profound knowledge of the Indian character, when he put into the mouth of the son of a distinguished chief, about to be led to the stake and tortured by his victorious enemy, the words—

"Begin, ye tormentors! your threats are in vain:
The son of Alknomok will never complain."

Retaliation of Indian excesses, not producing then any effect in preventing their repetition, was condemned by both reason and the principles upon which alone, in any case, it can be justified. On this branch of the subject much more might be said; but, as he should possibly again allude to it, he would pass from it, for the present, to another topic.

It was not necessary, Mr. C. said, for the purpose of his argument in regard to the trial and execution of Arbuthnot and Ambrister, to insist on the innocence of either of them. He would yield, for the sake of that argument, without inquiry, that both of them were guilty; that both had instigated the war; and that one of them had led the enemy to battle. It was possible indeed, that a critical examination of the evidence would show, particularly in the case of Arbuthnot, that the whole amount of his crime consisted in his trading, without the limits of the United States, with the Seminole Indians, in the accustomed commodities which form the subject of Indian trade; and that he sought to ingratiate himself with his customers by espousing their interests, in regard to the provision of the Treaty of Ghent, which he may have honestly believed entitled them to the restoration of their lands. And if, indeed, the Treaty of Fort Jackson, for the reasons already assigned, was not binding upon the Creeks, there would be but too much cause to lament his unhappy if not unjust fate. The first impression made, on the examination of the proceedings in the trial and execution of those two men, is, that on the part of Ambrister there was the most guilt, but at the same time the most irregularity. Conceding the point of the guilt of both, with the qualification which he had stated, he would proceed to inquire, first, if their execution could be justified upon the principles assumed by General Jackson himself. If they did not afford a justification, he would next inquire if there were any other principles authorizing their execution; and he would, in the third place, make some observations upon the mode of proceeding.

The principle assumed by General Jackson, which may be found in his general orders commanding the execution of these men, is, "that it is an established principle of the law of na-

tions, that any individual of a nation, making war against the citizens of any other nation, they being at peace, forfeits his allegiance, and becomes an outlaw and a pirate." Whatever may be the character of individuals waging private war, the principle assumed is totally erroneous when applied to such individuals associated with a power, whether Indian or civilized, capable of maintaining the relations of peace and war. Suppose, however, the principle were true, as asserted, what disposition should he have made of these men? What jurisdiction, and how acquired, has the military over pirates, robbers, and outlaws? If they were in the character imputed, they were alone amenable, and should have been turned over to the civil authority. But the principle, he repeated, was totally incorrect, when applied to men in their situation. A foreigner, connecting himself with a belligerent, becomes an enemy of the party to whom that belligerent is opposed, subject to whatever he may be subject, entitled to whatever he is entitled. Arbuthnot and Ambrister, by associating themselves, became identified with the Indians; they became our enemies, and we had a right to treat them as we could lawfully treat the Indians. These positions were so obviously correct, that he should consider it an abuse of the patience of the committee to consume time in their proof. They were supported by the practice of all nations, and of our own. Every page of history, in all times, and the recollection of every member, furnish evidence of their truth. Let us look for a moment into some of the consequences of this principle, if it were to go to Europe, sanctioned by the approbation, express or implied, of this House. We have now in our armies probably the subjects of almost every European power. Some of the nations of Europe maintain the doctrine of perpetual allegiance. Suppose Britain and America in peace, and America and France at war. The former subjects of England, naturalized or unnaturalized, are captured by the navy or the army of France. What is their condition? According to the principle of General Jackson, they would be outlaws and pirates, and liable to immediate execution. Were gentlemen prepared to return to their respective districts with this doctrine in their mouths, and to say to their Irish, English, Scotch, and other foreign constituents, that you are liable, on the contingency supposed, to be treated as outlaws and pirates?

Was there any other principle which justified the proceeding? On this subject, he said, if he admired the wonderful ingenuity with which gentlemen sought a colorable pretext for those executions, he was at the same time shocked at some of the principles advanced. What said the honorable gentleman from Massachusetts, (Mr. HOLMES,) in a cold address to the committee? Why, that these executions were only a wrong mode of doing a right thing. A wrong mode of doing a right thing! In what code of public law; in what system of ethics; nay, in what respectable novel; where, if the gentleman were to take the range of the whole literature of the world, will he find any sanction for a principle so monstrous? He would illustrate its enormity by a single case. Suppose a man, being guilty of robbery, is tried, condemned, and executed for murder, upon an indictment for that robbery merely. The judge is arraigned for having executed, contrary to law, a human being, innocent at heart of the crime for which he was sentenced. The judge has nothing to do, to insure his own acquittal, but to urge the gentleman's plea, that he had done a right thing in a wrong way!

The principles which attached to the cases of Arbuthnot and Ambrister, constituting them merely *participes* in the war, supposing them to have been combatants, which the former was not, he having been taken in a Spanish fortress, without arms in his hands, all that we could possibly have a right to do was to apply to them the rules which we had a right to enforce against the Indians. Their English character was only merged in their Indian character. Now, if the law regulating Indian hostilities be established by long and immemorial usage, that we have no moral right to retaliate upon them, we consequently had no right to retaliate upon Arbuthnot and Ambrister. Even if it were admitted that, in regard to future wars, and to other foreigners, their execution may have a good effect, it would not thence follow that you had a right to execute them. It is not always just to do what may be advantageous. And retaliation, during a war, must have relation to the events of that war, and must, to be just, have an operation upon that war, and upon the individuals only who compose the belligerent party. It became gentlemen, then, on the other side, to show, by some known, certain, and recognized rule of public or municipal law, that the execution of these men was justified. Where is it? He should be glad to see it. We are told in a paper, emanating from the Department of State, recently laid before this House, distinguished for the fervor of its eloquence, and of which the honorable gentleman from Massachusetts has supplied us in part with a second edition, in one respect agreeing with the prototype, that they both ought to be inscribed to the American public—we are justly told in that paper, that this is the first instance of the execution of persons for the crime of instigating Indians to war. Sir, there are two topics which, in Europe, are constantly employed by the friends and minions of legitimacy against our country. The one is an inordinate spirit of aggrandizement—of coveting other people's goods. The other is the treatment which we extend to the Indians.—Against both these charges, the public servants, who conducted at Ghent the negotiations with the British Commissioners, endeavored to vindicate our country, and he hoped with some degree of success. What will be the condition of future American negotiators, when pressed upon this head, he knew

not, after the unhappy executions on our southern border. The gentleman from Massachusetts seemed on yesterday to read, with a sort of triumph, the names of the Commissioners employed in the negotiations at Ghent. Will he excuse me for saying, that I thought he pronounced, even with more complacency and with a more gracious smile, the first name in the commission, that he emphasized that of the humble individual who addresses you. [Mr. HOLMES desired to explain.] Mr. C. said there was no occasion for explanation; he was perfectly satisfied. [Mr. H. however proceeded to say that his intention was, in pronouncing the gentleman's name, to add to the respect due to the negotiator that which was due to the Speaker of this House.] Will the principle of these men, having been instigators of the war, justify their execution? It was a new one; there were no landmarks to guide us in its adoption, or to prescribe limits in its application. If William Pitt had been taken by the French army, during the late European war, could France have justifiably executed him, on the ground of his having notoriously instigated the continental powers to war against France? Would France, if she had stained her character by executing him, have obtained the sanction of the world to the act, by appeals to the passions and prejudices, by pointing to the cities sacked, the countries laid waste, the human lives sacrificed in the wars which he had kindled, and by exclaiming to the unfortunate captive, you miscreant, you monster, have occasioned all these scenes of devastation and blood? What had been the conduct even of England towards the greatest instigator of all the wars of the present age? The condemnation of that illustrious man to the rock of St. Helena, was a great blot on the English name. And Mr. C. repeated, what he had once before said, that if Chatham or Fox, or even William Pitt himself, had been Prime Minister, in England, Bonaparte never had been so condemned. On that transaction history will one day pass its severe but just censure. Yes, although Napoleon had desolated half Europe; although there was scarcely a power, however humble, that escaped the mighty grasp of his ambition; although in the course of his splendid career he is charged with having committed the greatest atrocities, disgraceful to himself and to human nature, yet even his life has been spared. The allies would not, England would not, execute him, upon the ground of his being an instigator of wars.

The mode of the trial and sentencing these men, Mr. C. said, was equally objectionable with the principles on which it had been attempted to show a forfeiture of their lives. He knew, he said, the laudable spirit which prompted the ingenuity displayed in finding out a justification for these proceedings. He wished most sincerely that he could reconcile them to his conscience. It had been attempted to vindicate the General upon grounds which he was persuaded he would himself disown. It had been asserted that he was guilty of a mistake in calling upon the court to try them, and that he might have at once ordered their execution without that formality. He denied that there was any such absolute right in the commander of any portion of our Army. The rightof retaliation is an attribute of sovereignty. It is comprehended in the war-making power that Congress possesses. It belongs to this body not only to declare war, but to raise armies, and to make rules and regulations for their Government. It was in vain for gentlemen to look to the law of nations for instances in which retaliation is lawful. The laws of nations merely laid down the principle or rule, and it belongs to the Government to constitute the tribunal for applying that principle or rule. There was, for example, no instance in which the death of a captive was more certainly declared by the law of nations to be justifiable than in the case of spies. Congress has accordingly provided, in the rules and articles of war, a tribunal for the trial of spies, and consequently for the application of the principle of the national law. The Legislature had not left the power over spies undefined, to the mere discretion of the commander-in-chief, or of any subaltern officer in the Army. For, if the doctrines now contended for were true, they would apply to the commander of any corps, however small, acting as a detachment. Suppose Congress had not legislated in the case of spies, what would have been their condition? It would have been a *casus omissus*, and although the public law pronounced their doom, it could not be executed because Congress had assigned no tribunal for enforcing that public law. No man could be executed in this free country without two things being shown: 1st. That the law condemns him to death; and, 2dly. That his death is pronounced by that tribunal which is authorized by the law to try him. These principles would reach every man's case, native or foreigner, citizen or alien. The instant quarters are granted to a prisoner, the majesty of the law surrounds and sustains him, and he cannot lawfully be punished with death, without the concurrence of the two circumstances just insisted upon. He denied that any commander-in-chief, in this country, had this absolute power of life and death, at his sole discretion. It was contrary to the genius of all our laws and institutions. To concentrate in the person of one individual the powers to make the rule, to judge, and to execute the rule, or to judge and execute the rule only, was utterly irreconcilable with every principle of free Government, and was the very definition of tyranny itself; and he trusted that this House would never give even a tacit assent to such a principle. Suppose the commander had made reprisals on property, would that property have belonged to the nation, or could he have disposed of it as he pleased? Had he more power, would gentlemen tell him, over the lives of human beings than over property? The assertion of such a power to the com-

mander-in-chief was contrary to the practice of the Government. By an act of Congress which passed in 1799, "vesting the power of retaliation, in certain cases, in the President of the United States"—an act which passed during the *quasi* war with France, the President is authorized to retaliate upon any citizens of the French Republic, the enormities which may be practised, in certain cases, upon our citizens. Under what Administration was this act passed? It was under that which has been justly charged with stretching the constitution to enlarge the Executive powers. Even during the mad career of Mr. Adams, when every means was resorted to for the purpose of infusing vigor into the Executive arm, no one thought of claiming for him the inherent right of retaliation. He would not trouble the House with reading another law, which passed thirteen or fourteen years after, during the late war with Great Britain, under the Administration of that great constitutional President, the father of the instrument itself, by which Mr. Madison was empowered to retaliate on the British, in certain instances. It was not only contrary to the genius of our institutions and to the uniform practice of the Government, but it was contrary to the obvious principles on which the General himself had proceeded; for, in forming the court, he had evidently intended to proceed under the rules and articles of war. The extreme number which they provide for is thirteen, precisely that which is detailed in the present instance. The court proceeded, not by a bare plurality, but by a majority of two-thirds. In the general orders issued from the Adjutant General's office, at headquarters, it is described as a court-martial. The prisoners are said in those orders to have been tried, "on the following charges and specifications." The court understood itself to be acting as a court-martial. It was so organized; it so proceeded, having a judge advocate, hearing witnesses, the written defence of the miserable trembling prisoners, who seemed to have a presentiment of their doom. And the court was finally dissolved. The whole proceeding manifestly shows that all parties considered it as a court-martial, convened and acting under the rules and articles of war. In his letter to the Secretary of War, noticing the transaction, the General says: "These individuals were tried under my orders, legally convicted as exciters of this savage and negro war, legally condemned, and most justly punished for their iniquities." The Lord deliver us from such legal convictions and such legal condemnations! The General himself considered the laws of his country to have justified his proceedings. It was in vain, then, to talk of a power in him beyond the law, and above the law, when he himself does not assert it. Let it be conceded that he was clothed with absolute authority over the lives of these individuals, and that, upon his own fiat, without trial, without defence, he might have commanded their execution. Now, if an absolute sovereign, in any particular respect, promulgates a rule which he pledges himself to observe, if he subsequently deviates from that rule, he subjects himself to the imputation of odious tyranny. If General Jackson had the power, without a court, to condemn these men, he had also the power to appoint a tribunal. He did appoint a tribunal, and he became, therefore, morally bound to observe and execute the sentence of that tribunal. In regard to Ambrister, it was with grief and pain he was compelled to say, that he was executed in defiance of all law; in defiance of the law to which General Jackson had voluntarily, if you please, submitted himself, and given, by his appeal to the court, his implied pledge to observe. He knew but little of military law, and he had not a taste, by what had happened, created in him for acquiring a knowledge of more; but he believed there was no example on record where the sentence of the court has been erased, and a sentence not pronounced by it carried into execution. It had been suggested that the court had pronounced two sentences, and that the General had a right to select either. Two sentences! Two verdicts! It was not so. The first, by being revoked, was as though it had never been pronounced. And there remained only one sentence, which was put aside upon the sole authority of the commander, and the execution of the prisoner ordered. He either had or had not a right to decide upon the fate of that man without the intervention of a court. If he had the right, he waived it, and having violated the sentence of the court, there was brought upon the judicial administration of the Army a reproach, which must occasion the most lasting regret.

Of all the powers conferred by the Constitution of the United States, not one is more expressly and exclusively granted than that is to Congress of declaring war. The immortal convention who framed that instrument had abundant reasons for confiding this tremendous power to the deliberate judgment of the Representatives of the people, drawn from every page of history. It was there seen that nations are often precipitated into ruinous war from folly, from pride, from ambition, and from the desire of military fame. It was believed, no doubt, in committing this great subject to the Legislature of the Union, we should be safe from the mad wars that have afflicted and desolated and ruined other countries. It was supposed that before any war was declared the nature of the injury complained of would be carefully examined, the power and resources of the enemy estimated, and the power and resources of our own country, as well as the probable issue and consequences of the war. It was to guard our country against precisely that species of rashness, which has been manifested in Florida, that the constitution was so framed. If then this power, thus cautiously and clearly bestowed upon Congress, has been assumed and exercised by any other functionary of the Government, it is

cause of serious alarm, and it became that body to vindicate and maintain its authority by all the means in its power, and yet there are some gentlemen who would have us not merely to yield a tame and silent acquiescence in the encroachment, but to pass even a vote of thanks to the author.

On the 25th of March, 1818, Mr. C. continued, the President of the United States communicated a Message to Congress in relation to the Seminole war, in which he declared that, although in the prosecution of it, orders had been given to pass into the Spanish territory, they were so guarded as that the local authorities of Spain should be respected. How respected? The President, by the documents accompanying the Message, the orders themselves which issued from the Department of War to the commanding General, had assured the Legislature that, even if the enemy should take shelter under a Spanish fortress, the fortress was not to be attacked, but the fact to be reported to that department for further orders. Congress saw, therefore, that there was no danger of violating the existing peace. And yet, on the same 25th day of March, (a most singular concurrence of dates,) when the Representatives of the people receive this solemn Message, announced in the presence of the nation and in the face of the world, and in the midst of a friendly negotiation with Spain, does General Jackson write from his headquarters that he shall take St. Marks as a necessary depot for his military operations! The General states, in his letter, what he had heard about the threat on the part of the Indians and negroes, to occupy the fort, and declares his purpose to possess himself of it in either of the two contingencies of its being in their hands or in the hands of the Spaniards. He assumed a right to judge what Spain was bound to do by her treaty, and judged very correctly; but then he also assumed the power, belonging to Congress alone, of determining what should be the effect and consequence of her breach of engagement. General Jackson generally performs what he intimates his intention to do. Accordingly, finding St. Marks yet in the hands of the Spaniards, he seized and occupied it. Was ever, he asked, the just confidence of the legislative body, in the assurances of the Chief Magistrate, more abused? The Spanish commander intimated his willingness that the American army should take post near him, until he could have instructions from his superior officer, and promised to maintain, in the mean time, the most friendly relations. No! St. Marks was a convenient post for the American army, and delay was inadmissible. He had always understood that the Indians but rarely take or defend fortresses, because they are unskilled in the modes of attack and defence. The threat, therefore, on their part, to seize on St. Marks, must have been empty, and would probably have been impracticable. At all events, when General Jackson arrived there, no danger any longer threatened the Spaniards from the miserable fugitive Indians, who fled on all sides upon his approach.

On the 8th of April the General writes from St. Marks that he shall march for the Suwaney River; the destroying of the establishments on which will, in his opinion, bring the war to a close. Accordingly having effected that object, he writes on the 20th of April that he believes he may say the war is at an end for the present. He repeats the same opinion in his letter to the Secretary of War, written six days after. The war being thus ended, it might have been hoped that no further hostilities would have been committed. But, on the 23d of May, on his way home, he receives a letter from the commandant of Pensacola, intimating his surprise at the invasion of the Spanish territory, and the acts of hostility performed by the American army, and his determination, if persisted in, to employ force to repel them. Let us pause and examine this proceeding of the Governor, so very hostile and affrontive in the view of General Jackson. Recollect that he was Governor of Florida; that he had received no orders from his superiors to allow a passage to the American army; that he had heard of the reduction of St. Marks; and that General Jackson, at the head of his army, was approaching in the direction of Pensacola. He had seen the President's Message of the 25th of March, and reminded General Jackson of it, to satisfy him that the American Government could not have authorized all those measures. Mr. C. said he could not read the allusion made by the Governor to that Message, without feeling that the charge of insincerity which it implied had at least but too much the appearance of truth in it. Could the Governor have done less than write some such letter? We have only to reverse situations, and to suppose him to have been an American Governor. General Jackson says, that when he received that letter, he no longer hesitated. No, sir, he did no longer hesitate. He received it on the 23d; he was in Pensacola on the 24th, and immediately after set himself before the fortress San Carlos de Barancas, which he shortly reduced. *Veni, vidi, vici.* Wonderful energy! Admirable promptitute! Alas! that it had not been an energy and a promptitude within the pale of the constitution, and according to the orders of the Chief Magistrate! It was impossible to give any definition of war that would not comprehend these acts. It was open, undisguised, and unauthorized hostility.

He would not trespass much longer upon the time of the committee; but he trusted he should be indulged with some few reflections upon the danger of permitting the conduct, on which it had been his painful duty to animadvert, to pass, without a solemn expression of this House. Recall to your recollection, said he, the free nations which have gone before us. Where are they now, and how have they lost their liberties? If we could transport ourselves back to the ages when Greece and Rome flourished in their greatest prosperity, and, mingling in the

throng, ask a Grecian if he did not fear some daring military chieftain, covered with glory, some Philip or Alexander, would one day overthrow his liberties? No! no! the confident and indignant Grecian would exclaim, we have nothing to fear from our heroes; our liberties will be eternal. If a Roman citizen had been asked, if he did not fear the conqueror of Gaul might establish a throne upon the ruins of the public liberty, he would have instantly repelled the unjust insinuation. Yet Greece had fallen, Cæsar had passed the Rubicon, and the patriotic arm even of Brutus, could not preserve the liberties of his country! The celebrated Madame de Stael, in her last and perhaps best work, has said, that in the very year, almost the very month, when the President of the Directory declared that monarchy would never more show its frightful head in France, Bonaparte, with his grenadiers, entered the palace of St. Cloud, and, dispersing with the bayonet the deputies of the people, deliberating on the affairs of the State, laid the foundations of that vast fabric of despotism which overshadowed all Europe. He hoped not to be misunderstood; he was far from intimating that General Jackson cherished any designs inimical to the liberties of the country. He believed his intentions pure and patriotic. He thanked God that he would not, but he thanked him still more that he could not, if he would, overturn the liberties of the Republic. But precedents, if bad, were fraught with the most dangerous consequences. Man has been described, by some of those who have treated of his nature, as a bundle of habits. The definition was much truer when applied to Governments. Precedents were their habits. There was one important difference between the formation of habits by an individual and by Governments. He contracts it only after frequent repetition. A single instance fixes the habit and determines the direction of Governments. Against the alarming doctrine of unlimited discretion in our military commanders, when applied even to prisoners of war, he must enter his protest; it began upon them, it would end on us. He hoped that our happy form of Government was destined to be perpetual. But if it were to be preserved, it must be by the practice of virtue, by justice, by moderation, by magnanimity, by greatness of soul, by keeping a watchful and steady eye on the Executive; and, above all, by holding to a strict accountability the military branch of the public force.

We are fighting, said Mr. C., a great moral battle for the benefit, not only of our country, but of all mankind. The eyes of the whole world are in fixed attention upon us. One, and the largest portion of it, is gazing with contempt, with jealousy, and with envy; the other portion, with hope, with confidence, and with affection. Everywhere the black cloud of legitimacy is suspended over the world, save only one bright spot, which breaks out from the political hemisphere of the West, to brighten, and animate, and gladden the human heart. Obscure that by the downfall of liberty here, and all mankind are enshrouded in one universal darkness. To you, Mr. Chairman, belongs the high privilege of transmitting unimpaired, to posterity, the fair character and the liberty of our country. Do you expect to execute this high trust by trampling, or suffering to be trampled down, law, justice, the constitution, and the rights of other people? By exhibiting examples of inhumanity, and cruelty, and ambition? When the minions of despotism heard in Europe of the seizure of Pensacola, how did they chuckle, and chide the admirers of our institutions, tauntingly pointing to the demonstration of a spirit of injustice and aggrandizement made by our country, in the midst of amicable negotiation. Behold, said they, the conduct of those who are constantly reproaching Kings. You saw how those admirers were astounded and hung their heads. You saw, too, when that illustrious man, who presides over us, adopted his pacific, moderate, and just course, how they once more lifted up their heads, with exultation and delight beaming in their countenances. And you saw how those minions themselves were finally compelled to unite in the general praises bestowed upon our Government. Beware how you forfeit this exalted character. Beware how you give a fatal sanction, in this infant period of our Republic, scarcely yet two score years old, to military insubordination. Remember that Greece had her Alexander, Rome had her Cæsar, England her Cromwell, France her Bonaparte, and that, if we would escape the rock on which they split, we must avoid their errors.

How different has been the treatment of General Jackson, and that modest, but heroic young man, a native of one of the smallest States in the Union, who achieved for his country, on Lake Erie, one of the most glorious victories of the late war. In a moment of passion he forgot himself, and offered an act of violence, which was repented as soon as perpetrated. He was tried, and suffered the judgment pronounced by his peers. Public justice was thought not even then to be satisfied. The press and Congress took up the subject. My honorable friend from Virginia, (Mr. JOHNSON,) the faithful and consistent sentinel of the law and of the constitution, disapproved, in that instance, as he does in this, and moved an inquiry. The public mind remained agitated and unappeased until the recent atonement, so honorably made by the gallant Commodore. And was there to be a distinction between the officers of the two branches of the public service? Are former services, however eminent, to protect from even inquiring into recent misconduct? Is there to be no limit, no prudential bounds to the national gratitude? He was not disposed to censure the President for not ordering a court of inquiry or a general court-martial. Perhaps impelled by a sense of that gratitude, he determined by anticipation, to extend to the General that pardon which he had the undoubt-

ed right to grant after sentence. Let us, said Mr. C., not shrink from our duty. Let us assert our constitutional powers, and vindicate the instrument from military violation.

He hoped gentlemen would deliberately survey the awful position on which we stand. They may bear down all opposition; they may even vote the General the public thanks; they may carry him triumphantly through this House. But, if they do, in my humble judgment, it will be a triumph of the principle of insubordination—a triumph of the military over the civil authority—a triumph over the powers of this House—a triumph over the constitution of the land. And he prayed most devoutly to Heaven, that it might not prove, in its ultimate effects and consequences, a triumph over the liberties of the people.

Mr. JOHNSON, of Kentucky, rose immediately after Mr. CLAY. He felt himself called on, having been a member of the committee which had had this subject under consideration, and as one of the minority on the report made by it, to express his views of the questions involved in the report, and in the propositions moved by way of amendment to it. Without further preface, he proceeded to state that the conduct of General Jackson, in regard to the trial and execution of Arbuthnot and Ambrister, had been the subject of censure, from a *misconception* of the law and of the facts connected with it; and, particularly, by confounding two principles of the laws of nations, which were in themselves separate and distinct. The general order directing the execution of these men asserted, that the subject of any nation, making war upon a nation at peace with that to which he belongs, is an outlaw and a pirate; and Mr. J. said it was correctly asserted. And the very same page of *Vattel*, on which gentlemen relied for the support of their doctrine, would bear him out in that for which he contended, and with which gentlemen had confounded one entirely different That, where persons have joined the standard of a belligerent, they may claim the character and privileges of the belligerent party, was a principle of public law, was not to be denied; but if an individual takes upon himself to create and carry on a war, without authority from any Government, it was a principle equally undeniable that he is an outlaw and a pirate—not that he is either technically, but that, in fact and by analogy, he is so to be regarded. It is an established principle of public law, that the crew of any vessel, engaging in war without the authority of any commission, may be treated as pirates, and put to the sword. If, on the land, the like course be pursued, he who is guilty of it is an outlaw and a bandit, and may be put to the sword. This was one principle of public law, and that which gentlemen had triumphantly asserted (and which nobody denied) was a wholly different one; both not only clearly supported by the authority of *Vattel*, but in the same page of that respected and excellent writer.

Mr. J. said he would venture to say that every ground taken by that man whose valor and conduct on the memorable eighth day of January, in the darkest period of the late war, had caused joy to beam from every face, would be found tenable on principles which have prevailed from the commencement of civilization to the present day. He pledged himself to produce chapter and verse to support his conduct in every incident of that war. He considered the essential interests of justice and of mercy to have been served in the execution of the foreign incendiaries who stimulated the Indians to barbarities on our frontier settlers; and that the military occupation of Florida by General Jackson was justifiable on the broad basis of national law, and of sacred duty to his country. When gentlemen undertook to say, that General Jackson had not the right of retaliation, let them recollect the case of proposed retaliation, during the Revolutionary war, for the barbarous murder of Captain Huddie. And on whom of the prisoners in our power did the lot fall? Not on a miserable interloper, but on Captain Asgill, an amiable and accomplished officer. What then said the Congress of the United States—that venerable and enlightened body which carried us through the Revolutionary conflict? What did they say? Why, sir, not only that the Commander-in-chief, but that every officer on separate command, possessed the right of retaliation, and that they would support him in the exercise of it. It was true that Asgill was released, for reasons of policy; but the right of retaliation was fully sustained. Four months, Mr. J. said, after the first blood was spilt in the Revolution, at the battle of Lexington, and two months after the memorable battle of Bunker Hill, which shed such a lustre upon our arms, and nearly a year before the Declaration of Independence, this question of the right of retaliation was solemnly discussed and settled in the correspondence between General Washington and General Gage; in which the former broadly asserted the right of retaliation, and declared that he should be governed by it. In order to take from our commanding General this right at the present day, Mr. J. said, gentlemen had again blended and confounded principles of the laws of nations, which in themselves were entirely distinct. In case of individuals in an army violating the laws of nations, and the known rules of war, it is a clear principle that they may be punished with death; and it was a principle equally clear, that in contending with a savage foe, you are at liberty to retaliate on them their own usages. But gentlemen had blended these powers and rights with the right of reprisal; and had confounded the power of putting to instant death a captive—a right inherent in the military power with which we have clothed the commander, and the exercise of which is a question between himself and his God.

I rejoice, said Mr. J., that the honorable gentleman who last addressed you, has expressed his opinion, that the intentions of General Jack

son, in what he has done, were good. I rejoice in it, sir, from my respect for that gentleman, whose opinion has with me more weight than that of any other individual; but this is a case in which the obstinacy of nature will not permit me to surrender my opinion to any individual whatever.

It had been denied that any example could be produced of military execution, at the fiat of the commanding General, in our country. Mr. J. said he would give an instance, in which two individuals were put to death by General Washington. Being given up by the revolted State line of Pennsylvania, as emissaries, sent by General Carlton, these men were instantly executed. For this fact, Mr. J. referred gentlemen to the Annual Register, which now lay open before him.

It had been stated, that the crimes for which these men were executed, were offences not recognized by the laws of the United States. Mr. J. denied the fact, and in doing so meant offence to no one. These miscreants, who had imbrued their hands in the blood of our countrymen—the instigators of the murders, the fruits of which were three hundred scalps in one place, and in another, althongh, according to the documents read by the Speaker, it would appear that the Indians were three murders in arrear of us—these individuals had been condemned and executed in conformity to the letter, if not to the spirit, of the laws of the United States. According to our rules and articles of war, whoever should relieve the enemy with money, victuals, or ammunition, or should knowingly harbor or protect them, or hold correspondence with the enemy, were subjected to death. So far the rule as to our army, which, by subsequent articles, was made so broad as to apply to the whole human family. But, if there was, on this point, any defect of power, here came in the law of nations to supply the deficiency; for that which subjects to death one of our own citizens, shall much more subject to death the foreign incendiary. Examples, in illustration of this doctrine, were plentifully scattered on the page of history. What was the fact, said he, as to the trial of the distinguished officer who was Adjutant-General of the British forces, during the Revolution? He was convicted *on his own confession* and by a court composed of six major-generals and eight brigadier-generals. General Jackson, Mr. J. said, was only following in the steps of those who had gone before. He was not here, he said, about to maintain that General Jackson was faultless; if he had no faults, he would not be human—but he stood here to maintain his devotion to his country; and that, in the course he had pursued in the trial and execution of Arbuthnot and Ambrister, he had only trodden in the footsteps of the immortal Washington.

As to the execution of the two Indian warriors, by the exercise of a summary jurisdiction over them, and the distinction made between their case and that of the white men, the reason was obvious to every man who had ears and would hear, or who had eyes and would see. In relation to the Indian chiefs, their color was sufficient evidence of their subjection to his right of disposing of them as justice required. The law of nations clothed him with the power to put an end to their existence. As to the stratagem of which gentlemen had complained, no one was less disposed than himself to look with a favorable eye on such stratagems as were contrary to morality. But there was no immorality in hoisting the flag of a foreign power, nor in capturing the person of your enemy when he unwarily puts himself in your power. Nor, in what had been done in relation to these Indians, was there any violation of humanity or of public law. Do they meet us in honorable combat? said Mr. J. In the case of the unfortunate Mrs. Garret, did they meet us in honorable conflict there? When they burnt the seaman alive, whom they had previously tarred and feathered, did they meet us in open combat? Was the war one in which Greek met Greek, or an American met the citizen or subject of any civilized nation? If it were, the course of Gen. Jackson, so far from receiving approbation, would deserve execration. But, considering the treacherous enemy he had to cope with, and the object of his measures, which was to give security to the frontier, and to save the wasteful expenditure of the blood, and even of the treasure of the nation; when I think on this, said Mr. J., I do not censure General Jackson, but, as before my God, I give him my thanks. But for his energy what would have been the consequence? The frontier of Georgia would have been deluged with blood, as it has been once before, and the gentleman from Georgia (Mr. COBB) would again have called upon us, with a voice of patriotism, and a voice of thunder, too, to pay the gallant Georgians for going against the Seminoles.

With regard to the treaty of Fort Jackson, Mr. J. said, he should enter into no long argument, but he differed exceedingly from his honorable colleague. Have we not a right, said he, to dictate terms to a conquered enemy? Was not the war which was terminated by that treaty an unprovoked war? Was it not instigated against us, and without cause, on the part of the Indians? On whose head should the blood fall, if you cannot control the Indians with the Bible? I wish to God you could, said Mr. J., and towards that object I will do, and have done, as much in my sphere as any one. There is at this moment, in the heart of my country, a school for the education of the Indians in the arts of civil life. But when you come into contact with them—when they flourish their tomahawk over your head—are you to meet them with the Bible in your hands, and invoke their obedience of that holy religion of which the Speaker tells us? I should be the last to raise the sword against them, if the employment of such means would appease their fury. Experience had shown it would not; and it became necessary to meet and chastise them.

And would any man say that, having put down their hostility by force, we had not a right to dictate to them the terms of peace? We had the right, and we made the treaty. That treaty received the sanction of every part of the Government—this House among them—(by the appropriation to carry it into effect) and it was too late now to disturb it.

As to the war, the constitutionality of which had been doubted, Mr. J. said, the President of the United States was not only authorized, but it was his bounden duty to make war on the Seminole Indians. Admit, for the sake of argument, that, beyond our boundary, they were to be considered as exercising a sovereign and independent authority, what would gentlemen gain by that admission? If it were true, had we not a right to trace them to their strongholds, even in a neutral country? On that point the expositors of the laws of nations were not silent. It was there laid down, that you may pursue a retreating enemy into a neutral country, if the Government of that country, either from partiality to him, or from inability to prevent it, shall not stop the progress of the retreating army.

Now, as to another point which, perhaps, considering it as too delicate, the Military Committee had not thought proper to approach. Mr. J. said he should be deterred by no such motive from examining the question of the power of the President to prosecute this Indian war, and from censuring him, if, in doing so, he usurped power or exceeded his duty. As early as the year 1787, the Congress had authorized the stationing of troops on the frontier, to protect it from the Indians, and the calling out of the militia for the same purpose. And this power had been acted on, from year to year, until the law of 1795 settled the point conclusively that, without a declaration of war by Congress, the President had the right to make war upon the savages: or, in the words of the law, on the Indian tribes. Let us, said Mr. J., look at our own powers—and how we have discharged them—instead of attempting to divest other branches of the government of their powers. What was our duty? To provide for calling out the militia—for what? To execute the laws, to suppress insurrection, and to repel invasion. It was on that principle that the power was granted to the Executive of this country to chastise the ruthless savages for individual murders, or for murders committed with their combined force. Has the President, then, said Mr. J., violated his authority? Certainly not. And if you take from him this authority, which he has so rightfully exercised, what is to become of our citizens on the frontiers? The heart of our country might be penetrated, and the savages besiege our very doors, while we are making long speeches about the policy and humanity of repressing their hostilities. Had such been the case in the recent instance, either from a defect in the law or in the execution of the law, the people would have said, our Government is a rope of sand, and the blood and treasure spent in its establishment have been lavished in vain. According to the first word of military command, a little varied, it is made the duty of the Executive to take care that the laws of the Union are executed, and that invasion is repelled; and for this purpose he may use the regular or militia force of the country. Would it not be an invasion to have our helpless women, and the infant descendants of those who have fought our battles, butchered by the indiscriminate tomahawk and scalping-knife? And would it not be a violation of the laws of the country to permit the hands of the Indian to be imbrued in the blood of our citizens?

Mr. J. then proceeded to touch upon the opinion of his honorable friend and colleague—for whom he felt not only friendship, but affection—that these incendiaries were put to death without necessity. He argued that, though after destroying Mickasuky and burning the Suwaney towns, General Jackson thought the war was at an end, he was afterwards convinced he had been mistaken; so much so, that he had found it necessary afterwards to go to Pensacola, and to leave two companies to scour the country around it, who were now fighting gallantly against the savages, who would have deluged the country in blood but for these measures. It was kind, if not just, to General Jackson, to take the reasons which he himself assigned as the ground of his measures. He stood before this House not only as a great captain, but as a man of sound sense and discretion. Gentlemen had said the war was at an end, But how many of the enemy had been killed? Look to the fact, in relation to the power of the enemy. They yet existed, when the sentence of death was carried into effect against Arbuthnot and Ambrister, in a force of greater amount than that which General Jackson had with him. Look at the communication of Arbuthnot, stating their force to be three thousand five hundred men; suppose these instigators of the war had been suffered to remain and go at large; suppose the benign influence of mercy, in the breast of this honorable and respectable court-martial, had weighed down the scale of justice, and these men had been discharged, what would have been the situation of the frontier of Georgia? Would it not have been the same as during the British war? These ignorant savages were deluded by their abettors into a belief that they were competent to cope with the forces of the United States. Of the twelve chiefs who signed the power of attorney to Arbuthnot, though two had been hung, there yet remained ten, and three thousand men who formed their command, to make battle against our forces under the instigation of the miscreants who had before stimulated them to war against us, and to their own ultimate ruin.

THURSDAY, January 21.

Seminole War.

Mr. JOHNSON resumed the speech which was interrupted by yesterday's adjournment.

He had already stated, he said, that General Jackson displayed more knowledge in the wilds of Florida, on this subject, than any member who had taken part in this discussion; and that gentlemen had blended two principles in the laws of nations together, the distinction between which General Jackson had seen and observed. The one was the case of volunteers entering a foreign service, for the purpose of improving themselves in the use of arms and the knowledge of the art of war—which case is thus stated in Vattel, p. 401, sec. 230:—"The noble view of gaining instruction in the art of war, and thus acquiring a greater degree of ability to render useful services to their country, has introduced the custom of serving as volunteers even in foreign armies; and the practice is undoubtedly justified by the sublimity of the motive. At present, volunteers, when taken by the enemy, are treated as if they belonged to the army in which they fight. Nothing can be more reasonable; they, in fact, join that army, and unite with it in supporting the same cause; and it makes little difference in the case whether they do this in compliance with any obligation, or at the spontaneous impulse of their own free choice." Such was the case of Kosciusko, of Lafayette, and the other illustrious foreigners who entered our armies during the Revolution, who were volunteers in the best of causes, but whose rights would not have been lessened had the cause been that of despotism and tyranny, instead of that of freedom and independence. But this case was widely different from that of interlopers, exciters of wars, and enemies of the human race, who might be hung up, and ought to be, by military law, as so many robbers and pirates. In the course pursued by General Jackson, then, and in his doctrine to which exception has been taken, he is even more than borne out by writers on the laws of nations, as Mr. J. showed by the following references: Vattel, p. 400, sec. 226.—"Even after a declaration of war between two nations, if the peasants of themselves commit any hostilities, the enemy shows them no mercy, but hangs them up as he would so many robbers or banditti. The crews of private ships of war stand in the same predicament: a commission from the sovereign or admiral can alone, in case they are captured, insure them such treatment as is given to prisoners taken in regular warfare." Martens, p. 272, b. 8.—"The violences committed by the subjects of one nation against those of another, without authority from their sovereign, are now looked upon as robberies, and the perpetrators are excluded from the rights of lawful enemies." Page 280.—"Those not authorized from their sovereign, who take upon themselves to attack the enemy, are treated by him as banditti." Page 284. "Those who, unauthorized by the order of their sovereign, exercise violences against our enemy, and fall into that enemy's hands, have no right to expect the treatment due to prisoners of war: the enemy is justifiable in putting them to death as banditti." The evidence before the court sufficiently established the facts on which, under the above passages of the law of nations, General Jackson was authorized, if not bound to proceed.

Was it supposed by gentlemen, Mr. J. asked, that General Jackson was so ignorant of the language of his country that he did not understand the meaning of the words "pirate and outlaw?" An outlaw the convict certainly was, as out of the protection of the sovereignty of Great Britain or of any other nation. In relation to the term "pirate," it had no other meaning than its technical one: there were pirates on land as well as on the ocean. We are not here, said Mr. J., to inquire whether General Jackson used technical terms, but whether he did substantially or legally right. While we are searching our law books and libraries for our definitions, I hope we shall not lose sight of the difference between our situation and that of the General while in the field; while our heads repose on downy pillows, and we can rise up and lie down when we please, he had an object to accomplish, at every hazard, and at every cost, which he could not have attained if he had not acted as he did. Would you rather, said Mr. J., that these men were living and the country deluged in blood, or that those men should have suffered according to their deserts? These men had been guilty of that for which one of our own citizens would have been put to death; and they were properly as well as legally put to death, in pursuance of General Jackson's object, which was, according to his instructions, to put a speedy and effectual end to hostilities so unprovoked. These men, living, said Mr. J., the tomahawk and scalping-knife would have been sharpened anew, and other emissaries would have derived encouragement from their impunity. Answer me this, Mr. Chairman—had you rather that the Mississippi and its various waters, the country to the Lakes, and beyond them to the North Pole, should have been jeopardized, that New Orleans should have passed from your power into the hands of the British during the late war, or that martial law should have been there established for a short time? For even that is now brought into view, which contributed so much to the glory as well as safety and honor of the country. If a man did not present himself in the attitude of suspicion, martial law did not affect him. I presume, sir, at least I hope, had I been there, I should have had no reason to dislike it. I have no particular respect for that desire of locomotion which could not bear to be restrained within certain bounds when the veterans of Wellington were to be met by the raw men of Kentucky and of Tennessee: I do not like that delicate fastidiousness of martial law, when the enemy is knocking at the gate. All men worthy of their country would make the sacrifice required of them on such occasions. If, for want of proper energy on the part of the commanding general, New Orleans had fallen into the posses-

sion of our enemy, what would have befallen the inhabitants, independently of the sacrifice of property and life? Beauty and booty was the watchword of the enemy. Had you rather, sir, that the enemy had succeeded in his object, or that this patriot should have put military law in force? As to the General, whose conduct I am proud to vindicate, said Mr. J., I consider him in the grave as to ambition—if he ever had any—which I never saw in him, except the ambition to serve his country. I do not speak of him because he is living, and that I ever expect to see again those eyes that never winked at danger when he was called upon to meet it. He has added to the military glory of his country more, perhaps, than any other living citizen; and, in the view of all statesmen and all writers on national law, the glory of a nation constitutes one of its greatest bulwarks of strength.

I now come, said he, to the consideration of the right of the President to make war on the savages; and on that point I contend that we have on the statute-book a perpetual declaration of war against them. I hope gentlemen will take down the expression, and attend to my explanation—I say we have a permanent and everlasting declaration of war—and why? The reason is very obvious. I shall not differ from gentlemen as to the policy and justice of observing the duties of humanity towards that unfortunate people. God forbid that a drop of Indian blood should be spilt except on the principles of civilized man. But the President would be wanting in his duty to his country, and to his God, if he did not use the strong arm of power in putting down the savages by the force he is authorized to employ, if they cannot be put down by the precepts of our holy religion; and Congress, had they not passed such a statute, would be wanting in duty to their country. Do the Indians ever declare war against their enemy? Do they embody themselves and engage in open conflict with their adversary, or do they come, like a thief in the night, and carry death to the unfortunate women, to the aged and infirm men, and the children whom they meet in their incursions? Is or is not that the universal practice? Let history answer the question. Should we, under these circumstances, have acted rightly, to take no precaution, but fold our arms in listless apathy, until roused by the Indian yell? Our predecessors too well knew their duty to do that. As early as 1787, and farther back if it were necessary to trace, provisions of the same nature as those now existing, were enacted by the venerable Congress of the Confederation. By various statutes the same provisions had been continued to the present day. The statute gave to the President a discretionary power to employ the forces of the United States, and to call forth the militia to repress Indian hostility; and gave it to him properly, on the principles of the constitution. By the constitution, the President is made Commander-in-chief of the Army; and it is made his duty to take care that the laws are executed, to suppress insurrections and repel invasions; and, by the same instrument, it is made our duty to provide for calling forth the militia to be employed in these objects. That power has been exercised in the manner which will be shown by the law of the United States. [Mr. J. here requested the clerk to read the statute to which he alluded;* and it was read accordingly.] Now, Mr. J. said, he thought this was a declaration of war of at least equal dignity to the manner in which the savages make war against us, and to the light in which we view them. We treat them, it is true, and we ought to treat them, with humanity; we have given them privileges beyond all other nations; but we reserve the right to repel their invasions, and to put to death murderers and violators of our peace, whether Indians or white men.

Mr. SMYTH, of Virginia, addressed the Chair. I promised, said he, when the House received the report of the Military Committee, that I would, when the time for discussing it arrived, attempt to show, that all the proceedings of General Jackson, in prosecuting the Seminole war, were justified by the law of nations. I will proceed to fulfil that promise.

In examining the proceedings of the armed force of the United States in Florida, I propose to make these inquiries: 1. Have the rights of the United States been transcended? 2. Have the constitutional powers of the President been exceeded? 3. Has General Jackson transcended his powers, or violated the laws of nations?

I proceed with the first inquiry: Have the rights of the United States been transcended?

The law of nations, like the common law of the land, is founded on reason and usage. To prove that it is reasonable that a nation should possess a certain right, is to prove that it does possess that right; unless it is shown that the custom and usage of nations is otherwise. We find those customs and usages in treatises compiled by writers on the law of nations.

The right of security, or of self-preservation, is one of the most important, and most unquestionable rights of nations. A nation has a right not to suffer any other to obstruct its preservation. This is one of those rights called perfect rights. The definition of a perfect right is, that it may be asserted by force. It is, therefore, the duty of the Government to preserve the people. "The safety of the people is the first law." And we have a right to do whatever is necessary to the discharge of our duties.

We have a right, by the law of nations, to destroy hostile savages residing within the ter-

* The following was the part of the act passed February 28, 1795, which was read:

SEC. I. That, whenever the United States shall be invaded, or be in imminent danger of invasion, from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State or States, most convenient to the place of danger or scene of action, as he may judge necessary to repel such invasion, &c.

ritorial limits of a neighboring power, but not amenable to the civil laws. A neighboring territory is not to become a safe asylum for banditti, who carry on against us predatory and murderous hostilities. You may not pursue a fugitive from justice on the territory of a neighboring nation: there is no necessity to authorize you to do so. But, if you cannot otherwise deliver yourself from an imminent danger, you may enter the territory of a neighboring power.—(*Vattel*, page 167.) In short, the Government, being bound to preserve the people, has a right to all the means necessary to preserve the people, whatever they may be. Nothing can dispense with the obligation, and nothing can destroy the right to the means.

The right of necessity, and the right of self-defence, are paramount to all other rights claimed under the law of nations. The inviolability of Ambassadors, and even the inviolability of crowned heads, must yield to the security of nations.

Thus, a conspiracy having been formed in 1717, in England, contrived by the Swedish Ambassador, to invade the country and dethrone the King, the Ambassador was arrested and his papers seized, (*Ward*, vol. 2, p. 330;) the other foreign Ministers expressed their satisfaction, except the Ambassador from Spain, who observed that he was sorry no other way could be fallen on for preserving the peace of the kingdom. He then assigned a satisfactory reason for adopting the measure; there was no other way of preserving the peace of the kingdom; therefore, the measure was necessary for self-preservation, and consequently lawful.

The Speaker (Mr. CLAY) has questioned the right of the United States to enter the country of the Seminoles in Florida, to suppress them, and put an end to their hostile incursions. It is a strange doctrine that there is no way to put an end to the hostilities of a subject savage community, whose country lies within the territorial limits of a power with which we are at peace, but by declaring war against that power. The law of nations allows you to enter the territory of a neutral power in quest of an enemy, (*Vattel*, p. 313.) It is even still more reasonable that you should possess the right, when the territory claimed by the neutral power is, in fact, the country, the residence, of your savage enemy, where alone effectual hostilities can be carried on against him.

The right of a sovereign power to exclusive jurisdiction within a territory, is founded on the engagement to govern the inhabitants, and restrain them from injuring other nations. When the Government is no longer able to restrain the inhabitants from injuring other nations, they have an undoubted right to attack such inhabitants, and suppress them, without going to war with that power which has become too feeble to restrain them. Should Buenos Ayres, or the Banda Oriental, having shaken off the authority of Spain, make war on the Brazilians, the latter would seem to have an undoubted right to invade them without going to war with Spain. Should Mexico set at naught the Spanish Government, and make war against the United States, the latter would have a right to invade Mexico without declaring war against Spain. So, in the case under consideration, Spain being unable to restrain the savages of Florida, has no right to complain that the United States have entered that country to restrain them.

The law of nations may be illustrated by cases in municipal law. I may pursue and destroy on your land a noxious animal which I have started on my own. If your house adjacent to mine is on fire, I may enter on your premises, and pull it down, for the preservation of mine. Where the reason is the same, the law is the same.

Such being the right of the United States, by the law of nations, it is proper to inquire, what effect on those rights has been produced by the treaty between the United States and Spain. By that treaty both parties bind themselves "expressly to restrain by force all hostilities on the part of the Indian nations within their boundary; so that Spain will not suffer her Indians to attack the United States."—(*Laws*, v. 2, p. 266.) Spain, then, is bound to restrain her savage subjects, and is liable to pay all damages that may be sustained by her failure; and should she fail, from inability to suppress them, she is still bound to use all the means in her power, and to furnish all the aid in her power for that purpose. The engagements of a treaty impose a perfect obligation, and give a perfect right; a right which may, if necessary, be asserted by force.—(*Vattel*, p. 182.) Spain then agrees, and is bound, that the Indians shall be suppressed, and the United States have a right that the Indians shall be suppressed. It is preposterous to contend, that, because Spain is unable to restrain the hostilities of her Indians, that, therefore, they are to remain unrestrained, when Spain has agreed that they shall be restrained, and the United States have a right that they shall be restrained. The consequence of the inability of Spain is, that the United States may use force in restraining the Indians of Spain; and have a right to all the means of effecting that object that Spain can furnish. When the performance of the duties of Spain devolves on the United States, they have a right to the means of performing those duties. Therefore, if the possession of the forts in Florida, is necessary to the suppression and restraint of those savages, the United States have a right to the possession of them.

The law of nations also recognizes the right, arising from necessity, of seizing a place of strength belonging to a neutral power, and putting a garrison into it, either for defending itself against an enemy, or for the purpose of preventing him in his designs of seizing this place, when the neutral government is not able to defend it.—(*Vattel*, p. 315.) The treaty

with Spain certainly neither diminishes nor weakens the rights of the United States. It increases and strengthens them. The object of the article under consideration, is the suppression of the hostile savages. This object is to be, and must be, effected. The two nations have agreed and bound themselves that it shall be effected; and that agreement is as to them a written law of nations.

Our right being established, and the incapacity of Spain to fulfil her obligation notorious, the law of nations allowed the United States, when they could not obtain due satisfaction by amicable means, or foresaw that it would be useless to try such means, to have recourse to forcible means in pursuit of their rights—(*Martens*, pp. 265, 268.) Indeed, the right claimed by the United States was of such a nature that a specific performance of the agreement to suppress the hostilities of the savages was indispensable. If that could not be performed by Spain, it must be performed by the United States, who would then be entitled to demand of Spain satisfaction for her failure to perform her engagements.

It therefore seems to me that there can be no doubt that the United States had a right to enter Florida in pursuit of the Seminole savages; to possess the means necessary to restrain them—and to restrain them.

The next inquiry that I propose to make is, Have the constitutional powers of the President been exceeded?

An honorable gentleman from Georgia was of opinion that there should have been a declaration of war against the Seminoles. He says, "the war-declaring power has been snatched from Congress." Let me here remark, that I think this objection would have come better from any other quarter than from the State of Georgia, for the safety of whose people this war has been commenced and prosecuted. I would also remark, that this objection would have come better from any other gentleman than him who made it; yet no doubt he made it in obedience to what he now deems his duty.

On examining the journals of the last session, I find, on the third of April, this entry: "On motion of Mr. CONE, resolved that the Committee on Military Affairs be instructed to inquire into the expediency of increasing the pay of the militia now in service, or which may hereafter be called into the service of the United States, in the war now prosecuting against the Seminole tribe of Indians." This was ten days after the President had informed the House that the army was authorized to enter Florida. An acknowledgment that war exists, is a declaration of war.* It then appears, that at least the gentleman and this House have declared the war. Another proof that the war was authorized by Congress, is found in the appropriation for the pay of militia employed therein. A third piece of evidence, which will prove satisfactory to the gentleman, is an act passed in pursuance of his resolution, which recognizes "the war against the Seminole tribe of Indians," and is a complete declaration of war by Congress.*

But all this was unnecessary to enable the President to make war against the Seminoles; for a defensive war need not be declared; the state of war being sufficiently determined by the open hostilities of the enemy.† Our war against the Indians is decisive, although carried on in their country, because we suffered the first act of violence.‡ Should Spain commence war against us after the rising of Congress, no doubt the President, with his fleets and armies, would be authorized to fight before the meeting of Congress, and to continue fighting, whether the war was ever declared or not. And we have given to the President a continuing authority to repel invasions by the Indian tribes.§ The act of Congress under which President Washington ordered the Generals St. Clair and Wayne to invade the Indian country, merely authorized him to call out the militia to aid in protecting the frontiers from the hostile invasions of the Indians.‖ The attack by the Indians of Florida being an invasion, the President was authorized to repel it, and in repelling to pursue and effectually to suppress the invaders.

It by no means follows, as some seem to suppose, that because the President cannot declare war, that he can do nothing for the protection of the nation, and the assertion of its rights. The power to declare war, is a power to announce regular war, or war in form, against another power. But it never was intended, by reserving this power to Congress, to take from the President the power to do any act necessary to preserve the nation's rights, and which does not put the nation into a state of war with another power. If Congress, in addition to the power of declaring war, assume to themselves the power of directing every movement of the public force that may touch a neutral; or that may be made for preserving the national rights; or executing the laws and treaties; they will assume powers given to the President by the constitution. A declaration of war against savages is not only unnecessary, but would be highly impolitic. It would be an acknowledgment of their independence; an acknowledgment that they may engage in war in form; that the usages of such a war apply to hostilities with them; and that they are entitled to the treatment of lawful enemies. I contend that there can be no such thing as a war in form between this nation and a tribe of American savages. A war, waged by Indians against the United States, can have no lawful object. The only object of such a war must be plunder, massacre, destruction, and revenge—and incursions committed without lawful authority, or apparent cause, and only for havoc and pillage, can

* 4th vol. Laws, 835.

* Acts first session, Fifteenth Congress, page 94.
† Vattel, 293. ‡ Martens, 273.
§ 2d vol. laws, 479. ‖ Same, 74, 102.

be productive of no lawful effect. A nation attacked by such enemies is under no obligation to treat them as lawful enemies. They may be hanged as robbers,* or banditti.

If the President has a right to repel an Indian invasion without a declaration of war, as I have contended, then he may lawfully enter even a neutral territory in pursuit of the enemy without making war against that neutral power; and consequently without war having been declared against such power. If the United States have a right to enter the territory of Spain, there to suppress the Seminoles as I have contended, then the President may assert that right; for the act being no act of war against Spain, a declaration of war is not necessary to precede or authorize its performance. The exercise of a right is neither war nor cause of war; nor does the violence which opposition may render necessary, make it war. We may enter a neutral territory to attack an enemy; we may seize a neutral place to anticipate an enemy; we may pass by force, when necessary, through neutral territory; yet the place or territory is still considered neutral, and therefore the act is not war.

This right of the nation is to be exercised by those intrusted with its protection. The President is charged with the duty of asserting the rights of the nation, and he is furnished with the means. He is Commander-in-chief of the Army and Fleet; and it is his duty to see that the laws (which include treaties) be faithfully executed. He may therefore possess, on behalf of the United States, whatever another power by treaty authorizes the United States to possess. He may do beyond the jurisdiction of the United States whatever the law of nations or treaties authorize the United States there to do. He cannot seek satisfaction by war. He cannot make reprisals. But he may assert a specific right; or take possession of a specific thing, claimed by the United States. Thus, President Madison took possession of West Florida, claimed by the United States, and also by Spain. By his order, Wilkinson took the fort of Mobile from a Spanish officer. Force was to have been used, but the place was obtained by capitulation. I doubt not those proceedings had the entire approbation of the Speaker, (Mr. CLAY,) who very ably advocated the claim of the United States to that province.

I therefore conclude, that all the right which the United States had to do the acts which have been done in Florida, is vested in the President, the Executive branch of the Government.

The next inquiry which I propose to make is, *Has General Jackson transcended his orders, or violated the law of nations?*

In examining this question, it is necessary to see, in the first place, what were his orders. On examining the orders under which General Jackson acted, I find them to be as follows:

"26th Dec. 1817. To adopt the *necessary measures* to terminate a conflict which it has ever been the desire of the President, from considerations of humanity, to avoid; but which is now made necessary by their settled hostilities."

"16th Jan. 1818. To terminate speedily the war with the Seminoles; and with EXEMPLARY PUNISHMENT for hostilities so unprovoked; the honor of the United States requires it."

"29th Jan. 1818. To put a *speedy and successful termination* to the Indian war."

"6th Feb. 1818. To terminate the rupture with the Indians as speedily as practicable; to restore peace on such conditions as will make it *honorable and permanent.* The HONOR our army, and the interest of our country requires it."

In an order issued previous to all those which I have quoted, to wit, on the 16th of December, 1817, and addressed to General Gaines, he is allowed to march across the Florida line, and attack the Indians within its limits, should it be found necessary, "*unless they should shelter themselves under a Spanish fort.* In the last event, you will immediately notify this Department." This event never did happen; the Indians did not shelter themselves under a Spanish fort. And the event never having happened, the orders are to be understood as if no such clause was contained therein. This clause cannot be construed into a prohibition to possess himself of the forts of Florida, if necessity, or hostilities, justified the commanding officer in doing so, according to the law of nations or from treaties.

I will consider the objections that have been made to the proceedings of General Jackson: 1. In occupying St. Marks. 2. In occupying Pensacola. 3. In executing Arbuthnot and Ambrister. But here let me remark, that the President has refused to censure or punish General Jackson for his proceedings in Florida, and thus takes upon himself the responsibility for them. It is the President that is responsible to Congress, and we shall not turn aside from him to censure a subordinate officer. It is against the President that we should direct our measures, if we take any. He has applauded General Jackson's motives, and excused his actions, and it is not for us to condemn them. This House may impeach, and the Senate may try the President; but General Jackson is not responsible to either.

Let us see if General Jackson was not justifiable in occupying St. Marks. I have attempted to show that, as the United States had been compelled, by the delinquency of Spain, to do the duties of Spain, they were entitled to the possession of the means, and so entitled to the possession of the fort of St. Marks, as a means of restraining the Indians. I have also shown that, by the law of nations, necessity authorizes the temporary seizure of a place, for preventing the enemy from seizing this place, when the neutral sovereign is unable to defend it.* To

* Vattel, 296, 297.

* Vattel, 315.

require that the exercise of this right should be preceded by a declaration of war, is to deny the right altogether, which is to take possession of the fortress of a *neutral* power. The Indians and negroes had threatened to occupy St. Marks,* and premeditated seizing that post.† Five hundred of them had approached it, to the alarm of the commander.‡ The case in which it is justifiable to seize a neutral post, existed. The General therefore stands fully justified in the seizure of St. Marks. Thus the Great Frederick, having ascertained the intended invasion and partition of his dominions, by Russia and Austria, took Dresden in depot, that he might be beforehand with his enemies.

I will pass from St. Marks to the occupation of Pensacola. The orders of General Jackson were to "adopt the necessary measures" to procure a speedy and effectual termination of the war, and a peace on such terms as would be permanent, and honorable to the army and the United States. But the war could not be speedily terminated, if the Spanish Governor of Pensacola abetted, encouraged, and supplied the savages, and obstructed the arrival of supplies for the American army. The possession of Pensacola was necessary to the execution of his orders.

Provisions may be seized by force when necessary.§ Then a post may be occupied which obstructs their arrival. The Spanish commandant of Pensacola having endangered the existence of the American army, by detaining their supplies of provisions, it was necessary that he should be deprived of the power of doing the same again, during the continuance of the war.

General Jackson was reminded, in his orders, of the honor of the United States, and the honor of the army. His duty to preserve both inviolate was thus particularly impressed upon him. While engaged in suppressing the Seminoles, and thus performing what it was the duty of Spain to have done, he was ordered by the Governor of Pensacola to retire with his forces from West Florida, with a threat to use force to compel him, if he did not comply.‖ Will any member say, that, on receiving this order, Jackson should have fled? Ought he to have forgotten the HONOR of the United States, the HONOR of the American army, so lately and particularly recommended to his safe-keeping, and fled from West Florida, before the Spanish Cross, to avoid the arms of Don José Mazot? I presume no one would say he should have fled. Whatever doubt there might be as to the necessity or legality of taking possession of Pensacola before the Governor issued this menace, there was none afterwards. General Jackson at once saw that if he retired, he retired in disgrace, the honor of the United States and of the army tarnished, and his orders shamefully violated. It became necessary that he should deprive Mazot of the means of carrying his threat into execution. A threat which, if he should not attempt to execute against General Jackson himself, while his army remained in full force, it now became extremely probable that he would carry it into execution, with the aid of the savage and negro enemy, against the diminished force which General Jackson might leave in Florida. The immediate occupation by General Jackson of the fort of Barancas, was the necessary and proper result of the hostile declaration of Governor Mazot.

I will next consider the objections made to the conduct of General Jackson, in the execution of Arbuthnot and Ambrister.

Some of my arguments on this branch of the subject, have been anticipated by the honorable member who has preceded me, the chairman of the Military Committee, (Mr. JOHNSON, of Kentucky,) and it gives me satisfaction to find that my opinion agrees with that of a gentleman who is as much distinguished by his humanity as by his valor.

My observations will chiefly relate to the case of Ambrister, as the proceedings against him have been the most censured; and what is said of his case, will in the general apply to that of Arbuthnot.

I will attempt to maintain that Ambrister was an outlaw, making war without authority, instigating savages to an unlawful war, a leader of banditti, and liable, by the law of nations and the usages of war, to suffer death.

It was found by the special court-martial, that Ambrister had led and commanded Indians in carrying on war against the United States, being a British subject. Peace exists between all the citizens of the United States and all the subjects of Great Britain; and the Englishman who counsels, aids, or abets savages to massacre the people of the United States, is a murderer.

It is the laws of war, a branch of the law of nations, that gives to the commanding General a right to put prisoners to death, either for a violation of the usages of war, or by way of retaliation. In the one case, they die for their own crime, and their punishment is just; in the other, they are put to death for the crimes of their party, and their punishment is justified by policy.

Among the crimes against the laws of war, for which a prisoner may justly die, are—1. Making war without authority, the war being lawful; 2. Making war, if the war is unlawful; 3. Using means contrary to the laws of war.

That article of the laws of war that provides that he who fights without authority is liable to suffer death, seems not to have been rightly understood by either branch of the Military Committee: but it is a rule well established, and very beneficial to humanity. General Jackson seems to me to have entertained a correct idea of the rule, but not to have taken time, when giving his order for the execution of Ambrister, to express himself with sufficient clearness. I should interpolate the rule as laid down by him,

* Documents, 91.
† Documents, 56, 63, 81, Luengo's letter.
‡ Documents, 80. § Vattel, 166.
‖ Documents, p. 116.

and make it read thus: "It is an established principle of the law of nations, that any individual of a nation making war against the citizens (or soldiers) of another nation, the nations being at peace, (and having no authority by being in the service of a power making a lawful war,) forfeits the protection of his government; and becomes an outlaw (or robber, if he makes war by land) or a pirate, (if he makes war by sea.") The rule thus amended is equally applicable to the case of Ambrister, as in the form expressed by General Jackson. And it is fully established by the writers on the law of nations.

Ambrister did not, by coming to Florida, owe allegiance to Bowlegs or to Hillishajo. He continued the subject of Great Britain; and he owed temporary allegiance to the King of Spain. By aiding savages to carry on war against the United States, he violated the British treaty, the Spanish treaty, the law of nature, the law of nations, and the laws of war, and justly suffered death.

It is only in lawful wars that those who are taken are entitled to the treatment of prisoners of war. A war, to be lawful, must be undertaken by the sovereign power.* There must be lawful authority for making it, and apparent just cause. It must not be merely an incursion for havoc and pillage. An individual cannot wage lawful war against a nation; he is a robber. A family cannot; they will be robbers. A tribe of savages cannot; they may be treated as enemies of the human race. "Nations which are always ready to take arms on any prospect of advantage, are lawless robbers; but they who seem to delight in the ravages of war, who spread it on all sides, without any other motive than their ferocity, are monsters unworthy the name of men. All nations have a right to join in punishing, suppressing, and even exterminating such savages."† This is the language of the law of nations. Then, as the Seminole savages could not themselves make a lawful war against the United States, their chiefs, Bowlegs and Hillishajo, could not communicate such a right to Ambrister.

Having considered the liability of Ambrister to suffer death, for a violation of the laws of war, in exercising unlawful hostilities, I will next consider his liability to be put to death by way of retaliation, as a person incorporated with the enemy.

I lay down, with regard to the savages, this rule of warfare. Whatever degree of force, whatever destruction, whatever punishment for violating the usages of war or by way of retaliation, is found necessary to deter them from robbing our citizens, and massacring our women and children; that force, destruction, and punishment, they should be made to feel, and no more. So much we have an undoubted right to inflict on the principle of self-preservation. And if we do not inflict so much, we fail in our sacred duty to preserve the people.

I find this opinion fully supported by the authority and example of the greatest man that this or any other country has produced. General Washington, who knew when to silence pity, if its exercise was injurious to his country, did not consider the usages of war, or the principles of humanity, as applicable to a war carried on for the punishment of the unprovoked and atrocious hostilities of savages.* In his order to General Sullivan, directing his operations in the Indian country, I find the following clauses:

"The expedition you are appointed to command is to be directed against the hostile tribes of the Six Nations of Indians, with their associates and adherents. The immediate objects are the total destruction and devastation of their settlements, and the capture of as many prisoners of every age and sex as possible."

"I would recommend that some post in the centre of the Indian country be occupied with all expedition, with a sufficient quantity of provision, whence parties should be detached to lay waste all the settlements around, with injunctions to do it in the most effectual manner, that the country may not merely be overrun, but destroyed."

"After you have very thoroughly completed the destruction of their settlements, if the Indians should show a disposition for peace, I would have you to encourage it, on condition that they will give some decisive evidence of their sincerity, by delivering up some of the principal instigators of their past hostilities, into our hands—Butler, Brandt, the most mischievous of the Tories that have joined them, or any other they may have in their power, that we are interested to get into ours."

"But you will not, by any means, listen to overtures of peace, before the total ruin of their settlements is effected."

"Our future security will be in their inability to injure us—the distance to which they are driven, and the terror with which the severity of the chastisement they receive, will inspire them—peace without this would be fallacious and temporary."

"When we have effectually chastised them, we may then listen to peace; and endeavor to draw further advantage from their fears."

Such were the orders given by General Washington for inflicting exemplary punishment on the savages. Let us see how they were executed. "Every lake, river, and creek, in the country of the Six Nations, was traced for villages, and no vestige of human industry was permitted to remain. Houses, corn-fields, gardens, and fruit-trees, shared one common fate. Eighteen villages, a number of detached buildings, one hundred and sixty thousand bushels of corn, and all those fruits and vegetables which conduce to the comfort and subsistence of men, were utterly destroyed.† On receiving the communication of General Sullivan, Congress passed a vote of approbation of his conduct, and of that of the army."

Had Brandt and Butler fallen into the hands of General Washington, they would, no doubt, have met the fate of Arbuthnot and Ambrister.

* Vattel, 296; Martens, 272. † Vattel, 282, 151, 152.

* Vattel, 340. † Marshall's History, 100.

So resolved was General Washington that a severe example should be made, that he would not even listen to proposals of peace until it had been done. In the present case, also, the punishment was inflicted for example; to preserve the peace of the frontier; to preserve from the hatchet and scalping-knife women and children. Many will be saved by the example; but, should only one be saved, Arbuthnot and Ambrister have not died in vain.

The committee come to the conclusion that General Jackson acted unlawfully by supposing that the special court or board of officers appointed to investigate the fact in the cases of Arbuthnot and Ambrister were a general court martial, appointed to try and determine offences under the articles of war. If that were so, the second sentence of the court in Ambrister's case, that he should receive fifty stripes, and be confined with a ball and chain to hard labor for twelve calendar months, is contrary to law, and, therefore, void; for, an act of Congress has repealed so much of the articles of war as authorizes the infliction of corporeal punishment by stripes.* But the court was not appointed under the articles of war. It was neither a general nor a regimental court-martial. Its authority was derived from the order of the commanding General, and was to investigate charges, and record their opinion as to the guilt or innocence of the prisoners, and what punishment, if any, should be inflicted. The law under which Ambrister was punished was the laws of war. Those laws do not authorize infliction of torture. Therefore, the second sentence, to inflict stripes and labor at a ball and chain, is illegal and void. Whatever law the court was appointed and acted under, the second sentence is unlawful and void; consequently, the first sentence, that Ambrister should suffer death by being shot, was the only legal sentence, and properly carried into execution.

Ambrister died by the sole authority of General Jackson. No court-martial had power to try him by any law of the United States. But the committee say, that, "wherever severity is not absolutely necessary, mercy becomes a duty." A similar expression has been used by the writers on the laws of nations in regard to retaliating on the innocent for the guilt of others; but that is not this case. What mean the committee by "absolute necessity?" The nation indeed was not in danger: nor was it in danger when André died; and according to the reasoning of the committee, General Washington should have pardoned André; but André suffered, because the case required that the example should have its full effect; and so it was required in the case of Ambrister. Where pardon will have a pernicious effect on the interests of society, mercy becomes weakness and folly.

It is alleged that these incidents, the execution of Arbuthnot and Ambrister, are at variance with the principles of our constitution and laws. Our constitution and laws were formed for the people of the United States. They have no force in Florida. Ambrister and Hillishajo never came under the shade of the umbrella of the constitution. "They should," says the honorable Speaker, (Mr. CLAY,) "have been turned over to the civil authority. So soon as the stranger treads the American soil, he is encircled by the laws." I answer, there was no civil authority having jurisdiction of their cases, to which they could have been turned over. They never did tread on that portion of American ground where they could claim the benefit of our laws. Nor do those laws protect enemies in time of war. They did not protect Sir Charles Asgill; they did not protect André, or the emissaries who sought to corrupt the soldiers of the Pennsylvania line.

FRIDAY, January 22.

The Seminole War.

The committee again took up the subject of the Seminole war.

Mr. JONES, of Tennessee, next addressed the House. He said he had really felt some degree of astonishment when this resolution was introduced by the Committee on Military Affairs; not because this House ought not to examine, and strictly to examine, the conduct of any of the officers of this Government—a right which he hoped it would ever claim, and prayed God it might never fear to exercise. But, said Mr. J., when we are informed that, during this war, not only Arbuthnot and Ambrister, two British gentlemen, have been executed, but that two Indian chiefs have also suffered death, by order of the commanding General, it indeed seems somewhat strange that not a breath should be uttered as to the latter. Why, sir, is this discrimination? Is it because they were Britons? Is it because they were subjects of a civilized nation? Is it because they understood, but would not obey, the precepts of morality, of mercy, and of justice? This, sir, I have no doubt, the committee would be unwilling to admit. These Indians, Mr. Chairman, were also human beings; and, sir, I am free to declare that, on this subject, I partially accord with the honorable Speaker. If those chiefs had been mere Indians, or Indian chiefs, fighting the battles of their country, as they had a right to do, rude, ignorant, and superstitious, as they may have been, I should, to say the least of it, have deeply regretted their execution. Poor, wretched, miserable beings! Absolute necessity alone should demand their lives. Rather than shed their blood, rather than drive them from the face of the earth, rather than hunt them down, (as we have been compelled to do,) like the wild beast of the forest, I would, if possible, show them the light of science—point out to them the manner by which they may know something themselves, and be acknowledged

* Acts of May, 1812.

men by the nations of the earth. But, sir, we are informed, as to these chiefs, that they were not mere Indians, fighting the battles of their country; but, on the contrary, when our army was lying on the confines of Florida; when General Gaines was ordered merely to demand the perpetrators of murders which had been committed on our defenceless citizens; when we were declaring to them that we were desirous of nothing more than peace, these were the men who commanded the party that murdered Lieutenant Scott and his company—scalped and tomahawked the women of his party; and, to close the scene, when the men had fallen, and the women were murdered, against the boat that bore them the heads of the babes were dashed in pieces. But, if the honorable Speaker could convince us that these chiefs should not have suffered, would we, therefore, be convinced that we should adopt the resolution now under consideration, which relates only to the execution of Arbuthnot and Ambrister? In examining this subject, I beg leave explicitly to state, that I claim not of this House its sympathy or its pity for General Jackson: if he cannot be justified by the law of nations, let him fall. I am rejoiced to learn, Mr. Chairman, that all who have yet expressed an opinion either way on this subject, have willingly admitted that his motives for his actions were of the purest character. I may also be permitted to state, that I have had the honor of a personal acquaintance with General Jackson—have served under him, and fought with him; and, although it was my misfortune to differ with him as to the correctness of some of the measures which were adopted during the short period of my service, still, sir, since the commencement of his military career, in 1812, till the present period, I have had but one uniform opinion as to the main object which he has kept steadily in view; that is, that it was nothing else than the glory and honor of his country. Now, sir, let us examine what were the charges against these men. They were these: exciting and stirring up the Indians to war, and, as to Ambrister, leading them to battle; these were the charges of which they were found guilty, and for which they were executed. It was established, beyond a doubt, that these men had crossed the Atlantic for no other purpose than to carry into complete execution the hellish views of the famous Colonel Nicholls and Captain Woodbine, their predecessors; that these men, the subjects of a civilized nation, well understood the manner in which these savages carry on war; that they regard neither age, female, nor infantine innocence; whose almost only rule is indiscriminate murder; that, in fact, they were the prime movers of the war; that they, in fact, were really the murderers of our women and children. Are these men, I may here be permitted to ask, less guilty of the murders which they indirectly perpetrated than the wretched savage by whose hand they did the deed? Ask the soldier whose wife has been murdered by savage hands, upon whom he would take vengeance; or the mother, whose children have been butchered, upon whom she will be avenged. Ask common sense itself, who are the real actors in these bloody scenes. But we are told by the honorable gentleman from Georgia, with some degree of triumph, that General Jackson has established a new rule of the law of nations; says the gentleman, he declares that it is an established rule of the law of nations, that any individual of a nation, making war against the citizens of another nation, they being at peace, forfeits his allegiance, and becomes an outlaw and a pirate. It is not General Jackson, sir, who is mistaken, but the gentleman himself; he has confounded two distinct and separate rules of the law of nations. The first of which is this, that I, a citizen of the United States, have a right, by the law of nations, to advise the Government of France to war with Great Britain, or any other power; and if she choose to take my advice; if she declare war; if (which is essential to this rule) the act of declaring war be a national act; or if, without my advice, she be at war, I may of right enlist under her banners; I may lead or fight with her troops. Under these circumstances, I am identified with the French troops, and, if taken prisoner, am entitled to the same treatment as a French prisoner of war. The other rule of the law of nations will be found to be nearly in the words of the General; that is, if, as in the case above stated, I advise a nation to go to war, but she does not choose to take my advice, finding that the nation cannot be engaged; or if, without consulting anybody, I set about making war myself, I engage a set of desperate characters, or whoever else you please, and proceed to acts of hostility against the nation I would injure. This, sir, in the words of the General, would be an individual of one nation making war against the citizens of another nation, and this band, by the law of nations, are declared outlaws and pirates. Which of these rules, then, sir, will apply to the case of Arbuthnot and Ambrister? Are these vagrant savages a nation of people, within the meaning of the rule first mentioned; and, if so, has that nation declared war, and might these men have enlisted under their banner, and so have been entitled to the rights of prisoners of war? Whoever will take the trouble to examine the history of this war will be satisfied that it never can be viewed as having been a national act, within the rule above mentioned; and, to prove this, in the first place, I ask, if the fugitive Red Sticks, having formed a desperate band, partly of the relics of their own nation, and partly of Seminoles, could be considered as a nation, having a right to make war or peace? Or were they a banditti? Or what would you call the civilized wretch who would lead them? If these had not the right, I ask if the Indian and negro party of Colonel Nicholls had a right to make war? Will any one pretend to say that this tri-colored party were a nation? No, sir,

they were the refuse of villany itself; and yet, sir, it is an important fact, that these parties were perhaps the most prominent in the war; they did not enlist under the banners of the nation, but, sir, many of the citizens of the nation, (if it may be so called,) rallied round their standard. It is also a fact, worthy of consideration, that a considerable part of the nation were averse to the proceedings of their brethren, and fought with us against them. Under these circumstances, General Jackson might well view them in the character of individuals making war upon us, or as leaders of a lawless banditti. But, sir, suppose he was incorrect in this view of their case; suppose they were not outlaws and pirates, still their punishment was just; for, sir, the charges against them were not that they were outlaws and pirates, but that they had excited and led the Indians to war against us, and for this they were executed. Whether the crimes for which they suffered constituted them outlaws and pirates, is a question different from the establishment of the crime itself. I said, sir, that, admitting they were not outlaws and pirates, that still they suffered justly. If they were not the exciters and leaders of a banditti, and, of course, according to the rule before stated, outlaws and pirates, they were officers or soldiers, fighting under the banners of a nation which had the right to declare, and which had declared war, and were identified with the citizens of that nation, and were subject to all the laws of war and of nations, as applied to that nation. They had, in fact, become savages. What, then, sir, is the rule of the law of nations which will apply to them in this situation? It is this: "that when we are at war with a savage nation, which regards no rules, we may retaliate upon its citizens the cruelties committed on our own, care being taken to punish alone the guilty." Then, sir, I ask if ever there were fit subjects for punishment, under this rule, if these were not they? men around whom the light of science had shone in its most refulgent splendor—who were not ignorant of the precepts of mercy, of moderation, and of justice, to become worse than savages, to stimulate, to lead those wild, those untutored, those miserable men of the forest, to imbrue their hands in the blood of unresisting innocence.

But, it is said, there was no necessity for their execution, because, say gentlemen, the war was nearly over, we had no danger to apprehend. Sir, the necessity for executing such lawless miscreants exists now as much as then. What, sir, was the object of their punishment? Not merely that they should atone for the crimes which they had committed, but, sir, it was to teach an important lesson to the unprincipled subjects of Great Britain and Spain; it proclaimed to them, sir, in language which could not be misunderstood, what they might expect for like offences; and, sir, I have no doubt but that if, at the commencement of this Government, a determination had been fixed and avowed to the world, to punish with instant death all such offences, the effect would have been the salvation of the lives of many of our citizens.

The honorable committee who reported this resolution, have told us that the court-martial has no jurisdiction of the offence. In reply to which I will observe, that if I have shown that, by the law of nations, these men could be punished with death by a prince or by his general, I may be permitted to ask that honorable committee how the commanding General is to ascertain the fact of their guilt? Is he to sit as judge and juror? Is he to execute them on the mere suggestion of any one who chooses to charge them, or are the facts to be ascertained by respectable and honorable officers detailed for the purpose? Sir, if without the investigation of this respectable court these men had been executed, well, indeed, might we censure the General. The honorable gentleman from Georgia inquires, why General Jackson did not execute Weatherford? and answers the interrogatory himself, unhesitatingly, by stating that General Jackson did not then know the plenitude of his powers. Sir, I am happy to know that I have it in my power to give to this honorable committee the true reason why that gallant chieftain was not executed. Some time, sir, before the treaty of Fort Jackson, this chief was informed that General Jackson intended, if he could take him, to put him to death. He was advised by his friends, as his warriors were almost all slain, as his country was ruined, and as his escape was almost impossible, to surrender himself to General Jackson; that it was useless to attempt further resistance, and this was the only means by which his life could be saved; he determined to do so, and presented himself to the General, at his headquarters. We are informed that it was demanded of him who he was, and how he came there. He replied, "My name is Weatherford, one of the chiefs of the Red Sticks. I have fought you till my warriors are all slain. If I had warriors I would fight you still, but I have none; my country is overrun, and my soldiers are fallen. Here I am in your power—do with me as you please—only recollect that I am a soldier." This, sir, was the reason why the life of that brave chief was saved. If, under these circumstances, our General could have executed so distinguished a savage, the most verdant laurel would have faded on his brow.

Mr. TALLMADGE, of New York. In rising to address the House at so late an hour of the day, when the attention of the House was necessarily fatigued by those who had preceded him, and its patience somewhat exhausted, Mr. T. said, he was aware of the dangers that awaited him; he was aware of the perils that he must encounter in attempting to proceed. But, Mr. T. said, the resolutions under consideration were so important in their nature, and so replete with consequences of such magnitude, involving the interest and the honor of our country, that a sense of duty impelled him to go on.

Sir, said Mr. T., a question of war discussed in the highest deliberative assembly known to a free people, can never fail to become a question of great individual excitement—of great public interest. Its cause, and its consequences, to the public happiness, present it in an aspect almost appalling. But, said he, when the friends of the proposed resolutions tell this House, and tell this nation, that, in addition to the question of the Seminole war and its natural consequences, which we are called upon to discuss, in its progress, the constitution of our country has been violated by military power, and the honor of our nation stained by base and inhuman cruelties—it is then, sir, that the question assumes an aspect of tenfold more importance, and calculated to excite the feelings of this House and to arouse the spirit of the nation. Such, said Mr. T., is the question now presented for discussion. It was due to himself to confess to this House that his feelings were excited upon the occasion, and that he entered upon the discussion with a determination to meet it in all its bearings. But, he said, while he thus frankly avowed his feelings, he begged the indulgence to add, that, while he intended his course in debate should be marked with zeal and decision, yet he also intended to observe the decorum in debate due to the dignity of this House. He said it was his pride to say that, since he had the honor of a seat on this floor, he never had used against any member a harsh expression or severe allusion, and that he never would. He tendered his acknowledgments to the gentleman from Georgia (Mr. COBB) for the example he had set in the opening—ardent in debate, but temperate in expression. Mr. T. said it should be his course; he hoped others would also observe the example. His own opinion was decisively formed upon full examination of all the documents—and, while he did not doubt of the proper result, and which he should endeavor to prevail on this House to adopt, yet he was free to declare, there was ample room for difference of opinion, and, therefore, he was not inclined to cast any imputations upon those from whom he might differ. He was disposed to proffer to them the most charitable indulgence, and he was the more desirous they should accept from him the proffer, because he solicited it for himself from them in return.

Mr. T. said a doubt had already been expressed whether this House had the power to discuss and express its opinion upon the present subject, and a hope had been intimated that those who opposed the resolutions would not put that opposition upon the want of right and power in the House, and thus prevent the inquiry. He said, as for himself, he would not. It was a point upon which he had doubts. A great national question had arisen, connected with a recent war, and which had justly excited public feeling—it was, in his opinion, fit and proper that the Representatives of the people should investigate the subject and express their opinion. Mr. T. said, it was asserted that the Major General, who had conducted the war in its progress, had violated his orders—had broken the constitution, and had, by cruelties, dishonored our national character. Yet, said he, the President, from whom those orders emanated, has not arrested him, but has approved of his proceedings, and, consequently, stands responsible for the result. Whatever doubts might have been entertained as to our powers in the question between this House and the Major General, approved and adopted as the transactions had been by the President, it was now a question between him and the public; and no doubt of our powers could be reasonably entertained. Mr. T. said he hoped the power of the House would ever be sparingly exercised, and be reserved for great occasions. But, I hold, said he, that we have the power, and that it becomes a duty to investigate and express our opinions on great public occasions, producing public excitement. It is here, on this floor, and through their Representatives, that the people can only speak. Your Administration may become corrupt—your Executive officers may violate the laws, break the constitution, and, by violent outrages, even involve the country in war. In such an event, here, on this floor, and in this power for which I am now contending, will ever be found the only sure corrective. It is one of the dearest privileges of this House; one of the most essential to the liberties of the country to be preserved and maintained; and he hoped it would be the last prerogative ever surrendered. So far, then, from wishing to avoid the present discussion, I hold, said Mr. T., that the charges made are of so deep a dye, and have produced such excitement, that it has become our duty, as the Representatives of the people, to inquire, and to advise; nay, even to instruct public opinion upon the subject now under discussion. And, Mr. T. said, it afforded him a proud consolation to believe that the State which he had the honor in part to represent, would be willing to adopt as correct the opinion which this House should announce. Such, said Mr. T., has been the sensation produced by the manner and character of the accusations which have been thrown out, that he had no hesitation to say, if this House should terminate their session, and omit to inquire into and avow their opinion upon the present subject, it would disappoint the nation, and fix upon this House an eternal stigma, as wanting spirit to pronounce between the country and the Administration; or, if gentlemen would rather have it so, between the proposed resolution and General Jackson. He said he had no unwillingness on his part; and he hoped the House would hold fast upon the present resolutions, and insist upon a direct vote upon the accusing propositions. If the constitution has been violated, if the honor of the nation is stained by cruelties, this House should declare it to the country. If, on the contrary, the accusations are found to be incorrect, it was due to the Administration, it was due to the charac-

ter of General Jackson, that we should so declare, and thus wipe away the unjust imputations. A vote of thanks has been talked of. Mr. T. said he should oppose any substitute for the present resolutions. The thanks of this House constitute the best wealth of this nation; too precious to be used, unless on extraordinary occasions. Such was the affair of Orleans. But, it is sufficient that on investigation of the Seminole war, there shall be found no cause for blame. A decided rejection of the proposed resolutions of censure was all that the present occasion required.

But, said Mr. T., in addition to the proposed censure contained in the resolutions, they also contain subjects on which legislation is proposed. He said he was not prepared to say but legislation on those points might be proper, at a proper time, and under proper circumstances; but he was prepared to say that, on this occasion, under the present public excitement, and coupled with the proposed resolutions for censure, he, for one, would not consent to legislate. The act of legislation, under existing circumstances, would necessarily imply in itself a disapprobation of this House to the proceedings approved and adopted by the President, and would include a direct censure upon General Jackson. Let us, said Mr. T., reject the whole of the resolutions. If any gentleman thinks that legislation on any of these subjects is requisite for the public good; if he would bring it forward as distinct and disconnected propositions, it would undoubtedly receive the deliberate consideration of this House, and under no other circumstances ought it to be entertained. He said he was opposed to any act of this House which, by any inference, would look like censure on General Jackson, a man whose name and whose fame was identified with the history and the glory of his country—he would not say the first military captain of any country, but he thought he might say the first in ours.

But, said Mr. T., we have been told that this war was, on the part of our country, an offensive war; and, therefore, it did not come within the powers of the Executive to carry it on; and therefore the powers of this House, and its right to pronounce on peace and war, had been invaded, and our constitution had thus been violated. I am extremely embarrassed to determine how to answer this objection—an objection presenting an aspect so tremendous. The prerogatives of this House, on peace and war, are invaded — the constitution of our country violated. The Executive of our Government, upon his own responsibility, has waged an offensive war; or he has sanctioned, and subsequently approved of, General Jackson's making offensive war upon a defenceless Indian tribe! Is the Seminole war offensive on our part? At the last session of this House we specially appropriated money for the support of this war. But my excited feelings, said Mr. T., forbid me to discuss this point.

Sir, you are an American! Go, count the bleeding scalps of your murdered countrymen, of all ages and sexes, found by General Jackson, and then return, and tell to this House if this Seminole war was, on the part of your country, an offensive war! Tell this House, also, if you advise a vote of censure to be passed on the conduct of either the Executive, for his just orders, or upon General Jackson, for discovering upwards of three hundred dried and fifty fresh scalps, with a red pole erected as the beacon of Indian war, and crowned with the scalp of an American citizen!

Sir, said Mr. T., if I am correct that the Seminole Indians had waged an inhuman and destructive war upon the frontiers of Georgia, it became obligatory upon the Executive of the Union, both in the spirit and letter of his duty, to extend the arm of Government for their protection: no matter from what causes the war was produced; no matter from whence its origin. It was sufficient that a sister State was assailed, and called upon the Union for defence. Its omission by the Executive would justly have incurred the censure of this House. Sir, the President did not omit, in this respect, his duty. He called General Jackson into the field, and vested him with discretionary powers, "to concentrate his force, and to adopt the necessary measures to terminate the conflict." General Jackson promptly performed his duty; he did adopt the necessary measures; he has terminated the conflict; he has reported his proceedings; they have been adopted and approved by the President. Here, then, said Mr. T., the affair with General Jackson is at an end. He stands justified and discharged; whatever may have been the incidents in the progress and the conduct of that war, committed to his charge, he is exonerated from all responsibility. Good intentions and a faithful exercise of his discretion, under the circumstances as they transpired, were all that could ever be required of General Jackson. This is not doubted. The responsibilities of the transaction are therefore cast upon the Executive. It is an affair between the country and the President. Mr. T. said he rejoiced that it was; for he had no idea of Executive irresponsibility. He never would consent that a military officer should be charged with discretionary powers, and then be held responsible for any thing more than good intentions, and good faith in the performance of his duties.

But, he said, let me not be misunderstood. He disclaimed any wish to prevent inquiry. He had no desire to claim for General Jackson the protection of Executive responsibility. It would be doing injustice to the high character of that man. And he believed the whole tenor of his conduct would bear the strictest scrutiny. With this view, and although he thought General Jackson was sufficiently acquitted and discharged by Executive approbation, yet he should now proceed to examine the progress of the war; and he invited the fullest investigation.

Sir, said Mr. T., I hold that General Jackson

was vested with full and ample powers for the conduct of the Seminole war. The orders to him were discretionary; vesting in him adequate authority for every emergency that might be incident to the campaign. Under the circumstances, such discretionary orders were correct. He was about to be immersed in the wilderness, from whence he could neither communicate nor receive information from the War Department. It was, therefore, necessary to confide to him the whole conduct of the war; and the orders from the War Department, collectively considered, clearly vested in him ample powers for every exigency that the campaign might require. The functions of the War Department were expended in the amplitude of his orders. No additional powers could have been given, under any state of circumstances, had the War Office accompanied him into the wilderness. His ample and discretionary powers embraced every case, and covered and justified his whole conduct. Not, said Mr. T., that the orders to General Jaceson could justify him in doing any wrong—in making an offensive war, or in violating a neutral territory; but whatever act was required to be done, whatever the events of the war justified to be done, and which the War Office might have ordered, so far the orders to General Jackson extended. If I am correct in this position, there is an end to all question about violation of orders; General Jackson is justified; and the question only remains between the Executive and the country.

SATURDAY, January 23.

Monument to De Kalb.

Mr. REED submitted the following preamble and resolution:

Whereas a resolution was passed by the Congress of the United States, on the 14th day of October, in the following words, to wit:

"*Resolved*, That a monument be erected to the memory of the late Major General, the Baron de Kalb, in the city of Annapolis, in the State of Maryland, with the following inscription:

"Sacred to the memory of the Baron de Kalb, Knight of the Royal Order of Military Merit, Brigadier of the Armies of France, and Major General in the service of the United States of America; having served with honor and reputation for three years, he gave a last and glorious proof of his attachment to the liberties of mankind, and the cause of America, in the action near Camden, in the State of South Carolina, on the 16th of August, 1780, when, leading on the troops of the Maryland and Delaware lines, against superior numbers, and animating by his example to deeds of valor, he was pierced with many wounds, and, on the 19th following, expired, in the 40th year of his age. The Congress of the United States of America, in gratitude to his zeal, services, and merit, have erected this monument."

Resolved, therefore, That the aforegoing resolution be referred to a select committee, with instructions to report a bill *now* to carry the same into effect.

Mr. MERCER advocated the adoption of this resolution at some length, and with much ardor; urging in its support the valuable services of the Baron de Kalb, his gallant character, and illustrious death in defence of the liberty and independence of the United States, &c.

Mr. ANDERSON, of Kentucky, in reply, said he would never give his vote for a monument, or any other memorial to any subordinate, or any foreign officer, no matter how meritorious their services, so long as the remains of WASHINGTON lay neglected. He referred to the resolution now before the Senate, proposing an equestrian statue to WASHINGTON; and said, when that had been adopted, it would be then, and not till then, fair and proper to propose similar honors for other Revolutionary worthies. Mr. A. moved that the resolution be laid on the table.

Mr. REED said it was true that a proposition was now before the Senate to carry into effect the resolution of the Old Congress, which voted an equestrian statue for General WASHINGTON, but whether that should pass or not ought not to interfere with the present motion, and the fate of that proposition would not prevent him, Mr. R. said, from calling on this House to carry into effect a law passed nearly forty years ago, and to which the faith and honor of the nation were pledged. If Congress erected no monument to WASHINGTON, it would be no fault of his; he would go as far as any gentleman in obtaining it. There was, Mr. R. said, a law of the Old Congress directing a monument to Montgomery in the city of New York; it had been neglected by the nation; but the State of New York, to its lasting credit, has performed that duty itself, and, in the course of last year, removed the bones of the immortal Montgomery from the spot where he fell, to the land which he had so gloriously defended. Propositions had been frequently brought forward in this House, Mr. R. said, to erect a memorial of some kind to WASHINGTON, but, for some reason or other, they were never carried. It had been said, the page of history perpetuated the glory of WASHINGTON; but was not a monument also a history, in which every one might read not only the virtues of the man, but, also, the gratitude of his country? Certainly it was.

The question to lay Mr. REED's motion on the table was carried—yeas 76, nays 42.

Seminole War.

The House then proceeded again to the consideration, in Committee of the Whole, (Mr. TERRY in the Chair,) of the report of the Military Committee, and the amendments offered thereto by Mr. COBB.

Mr. STORRS said, that when he took his seat in the House at the commencement of the session, he looked with much anxiety to the Message which should disclose the true character of the transactions during the past year, on our southern frontier. We had, indeed, been informed, by the Message of the 25th of March last, that war existed between the United States and the Seminole tribe of Indians—that orders

had been issued for the advance of the army into Florida, but that the commanding officer was strictly enjoined against any attack on the Spanish fortresses, without the sanction of the Government. During the recess, he had heard of the entry of our troops into the territory of Spain, the seizure of St. Marks, the capture of Pensacola and the Barancas, the military trials of Arbuthnot and Ambrister, and the execution of the Seminole chiefs. Notwithstanding no evidence of disapprobation of any of these measures had transpired, except the offer to restore Pensacola unconditionally, and St. Marks, on terms prescribed by us, he was unwilling to believe that they had received the sanction of the Executive. The documents transmitted to the House had shown how vain was this expectation. He had carefully and attentively examined them, and formed an opinion upon them, he hoped with that deliberation which was due to questions of so great and vital importance to the constitution and character of the country. That opinion he had not found reason to change, nor was he ashamed or afraid to avow it, and should discharge his duty with frankness and fearlessness, let the censure, which, in his judgment, these transactions merited, fall where it might.

When, said he, the trials of Arbuthnot and Ambrister were laid upon our tables, and it was first developed that one of them had suffered death in consequence of the reversal of the sentence of the court-martial, by General Jackson, a universal burst of indignation seemed to have electrified the House. Have these manly and generous feelings, so honorable to our nature, fled from our bosoms, or have they chilled into insensibility during the long interval which has elapsed? He had waited in painful suspense for the report of the Military Committee, and acknowledged his gratitude to them for the firm stand which they had made against these encroachments of military power. He saw among them some of those who, in other times—in the darkest days of our adversity, when the yoke of parliamentary and military despotism was riveting on our necks, had stept forth as the protectors of their country, and with unconquerable spirit persisted in the contest which delivered us from the tyranny of Britain. He was happy to find that, during his life, this spirit has not left us—that, in his day, those were to be found among us who yet cherished the principles of that glorious conflict, and knew how to appreciate the value of those liberties which were earned at the expense of so much blood and treasure.

I am gratified, said he, to find that, to this period of the debate, excepting by the honorable gentleman for Virginia, (Mr. SMYTH,) the power of this House to interpose has not been questioned. We are the peculiar guardians of the constitution. Our liberties are safe in the same proportion that we execute our duty with firmness, vigilance, and fidelity. Offences short of impeachment, but which threaten the public safety, it is the right of this House to present to the nation; against evils of this sort it is the most effectual remedy. However the direct interposition of our constitutional power of impeachment may be evaded, there is a tribunal —*public opinion*—to whose judgments no man is indifferent, whose decision none can successfully withstand or defy, and which causes the stoutest heart to tremble. The genius of our institutions, the experience of other Governments, the records of all history, and the sad and melancholy fate of a long train of fallen republics, admonish us that liberty is only safe when faithfully guarded by the immediate representatives of an enlightened people.

The services of General Jackson have been eminently great. He has justly received from a grateful country its high rewards and honors. I am not disposed to detract from his well-merited fame. The victory of New Orleans was, indeed, a proud triumph—and, though I do not unite with some gentlemen in pronouncing it, in reference to its consequences, the greatest which this country has achieved, I cheerfully accord to the sentiments which have been expressed in praise of that great exploit. Though, with the rest of my countrymen, I felt and gratefully acknowledged that to him we owed much of our national character, and the security of a valuable portion of our territory, yet, I do not forget that even on that occasion he overstepped his power. I was disposed to forgive it. The evils which he averted and the blessings which he conferred upon us, were some atonement for the violated majesty of the constitution. But, great as his services have been, they afford no sanctuary against our inquiry—much less do they furnish any exculpation for the violation of the constitution. An example of impunity on such grounds, for these assumptions of power, will produce the most pernicious consequences among the subordinate officers of the army. Day after day have petitions been presented to this House, from the army, for indemnity against judgments awarded for the violation of the personal liberty of our citizens. The disposition to encroach upon the civil authorities of the Government should receive no encouragement from our hands. For some time past the people of this country have indulged a dangerous predilection for the army. In the civil departments one may attain to the highest eminence, and scarcely attract attention beyond the immediate sphere in which he moves; but, clothe him with the glare of military renown, and the eyes of the people are dazzled—his fame has no limits, and every one is ambitious and eager to honor him. It is time that we were roused from this fatal delusion. The affections of the country have been too bountifully devoted to the army, and the time may yet come when the people will find it too late to retrieve this error of their hearts.

If, sir, we consult the past history of other countries, and turn our eye back through ages which have gone before us; or, if we look

only to the events of our own times, we find much to warn us against receiving the services of public men as an apology for their usurpations. Every tyrant who has succeeded in overturning the liberties of his country, first stole away the affections of his countrymen by the services which he had rendered to the State. On this occasion it is well worthy of remark that these have, with few exceptions, been military services. Cæsar and Bonaparte only commenced their bloody career of tyranny after they had risen to power on the misguided affections of the people. In forming my judgment on the specific propositions before us, I lay altogether aside the motives of General Jackson. Laudable as they may have been, or faithfully as he may have believed himself to be acting in the discharge of his duty to his country, these form no part of the inquiry before us. To me it is immaterial with what views or what motives he has infringed upon the constitution. Our object should be to prevent the force of the precedent which these measures establish. If the powers of Congress have been encroached upon, let us declare it, unless we are prepared to surrender our prerogatives to a military chieftain, or to give up the constitution to mere matter of delicacy. This is not an inquiry with a view to the censure of General Jackson. It is required from us by the duty of self-preservation. The indirect censure which some of these resolutions imply, is no fault of ours. The enemy whom he triumphantly vanquished at New Orleans can derive no self-gratification from our proceedings. Would they boast, I would tell them to meet him in the field. The measures of this House will afford but a miserable consolation to those who there felt the energy of his arm, and whose pride was there humbled in the dust before his skill and valor.

The subject of these resolutions divides itself into several inquiries: the capture of Pensacola, the seizure of St. Marks, the crossing of the Florida line, and the execution of the captives. Whatever may be the justification for the seizure of Pensacola, the Barancas, and St. Marks, which the Executive has urged as between us and Spain, it is plainly admitted by him that the occupation of these posts was not justified by any orders which were issued. Such is the fair import of the Message communicated at the commencement of the session.

The immediate restoration of Pensacola is unequivocal evidence that the post was not captured in conformity to the views or instructions of the Executive, and virtually amounts to a disavowal of its seizure, on the part of our Government. Although, as between us and Spain, the Executive has not, and perhaps ought not, to have yielded to the demand of that Government to inflict punishment on General Jackson, it is not certain how far they have intended to adopt his acts as constitutional. From a careful examination of the letter from the Secretary of State to Mr. Erving, I have been led to doubt whether they have, in unqualified terms, sanctioned the occupation of St. Marks and Pensacola. In that letter, it is said that "it became, therefore, in the opinion of General Jackson, indispensably necessary to take from the Governor of Pensacola the means of carrying his threat into execution." Again: "It was, in his judgment, not sufficient that they (the Indians) should be suffered to rally their numbers under the protection of Spanish forts," &c. The cautious phraseology of these, and many other passages of this letter, leaves it somewhat equivocal whether even the Government has, as between General Jackson and us, assumed to their whole extent the doctrines on which General Jackson founded the justification of his proceedings. If, however, such sanction was intended on the part of the Executive, the powers of Congress are doubly jeopardized.

On the subject of the trials of Arbuthnot and Ambrister, it is said that "the defence of the one consisted solely and exclusively of technical cavils at the nature of part of the evidence against him, and the other confessed his guilt." It is here gravely asserted, that, on a trial for life or death, an objection to the hearsay declarations of an Indian is a technical cavil!—that this country recognizes an institution for trial of capital offences, on which an objection to the proof of the hearsay declaration of an Indian, who, if himself present, could not have been a competent witness, is a technical cavil! To be condemned to an ignominious death on testimony of this sort is what the honorable Secretary has termed "the benefit of a trial by court-martial." The threat contained in the conclusion of this letter deserves, at least, to be remarked by this House: "if the necessities of self-defence should again compel the United States to take possession of the Spanish forts and places in Florida, declare, with the frankness and candor that becomes us, that another unconditional restoration of them must not be expected." Before a war of conquest is carried into the dominions of Spain; before the armies of this nation are sent to enforce the conditions which we prescribe to other nations as the tenure by which they shall enjoy the sovereignty of their own territories, I trust that this House will at least be consulted; that the discretion of Congress alone will determine the question of war or peace. I do not relish the fulmination of these threats by a Secretary of Foreign Affairs. We have, indeed, heard of imperial edicts in another quarter of the globe. At one time it is decreed, that the Bourbon dynasty no longer existed in Spain; at another, the Queen of Etruria no longer reigns, and a band of soldiery is forthwith sent to enforce the mandate, and overturn the Governments of other nations. These imperial examples are hardly worthy of our imitation; and I pray that, if this letter is to be hereafter the model of our diplomatic correspondence, some means may be devised to remedy its effect upon our national character. It would hardly be imagined, from perusing that letter, by one unversed in our institutions, that our form of

government was republican. And against whom is this threat issued? "Poor, miserable, and degraded Spain!" Indeed she is too weak to repel or scarcely to resent the encroachments of any; but, fallen as she is, it affords but a sorry triumph to insult her weakness. I fear that the wrongs of which she has been guilty towards us have induced less regard for her rights, and that we have not, therefore, been scrupulous to respect them.

The capture of St. Marks was equally unauthorized by orders, and was equally in derogation of the rights of Spain. It appears to have been seized as a convenient "depot" to facilitate the operations of our army. I shall not detain you by again repeating what has already been so ably and satisfactorily illustrated by those who have already addressed the committee on this point. The terms, however, on which St. Marks was offered to be restored, are worthy of notice. They tend to show how greatly the importance of this war with the Seminoles, and that necessity which is resorted to as a justification of the capture of this fort, has been magnified. St. Marks is in the heart of the territory occupied by these tribes—and yet it appears, from the letter of the 30th of November, that two hundred and fifty men would be accepted as "a Spanish force adequate to its protection against the Indians." Yes, sir—two hundred and fifty "poor, miserable, and degraded" Spaniards, as the honorable gentleman from Massachusetts (Mr. HOLMES) was pleased to call that nation, were considered as competent effectually to restrain these tribes from its forcible occupation "for purposes of hostility against the United States."

Gentlemen have defended these proceedings as a case in which a belligerent is justified in seizing neutral forts or territory, in self-defence, arising out of extreme necessity. I admit that cases may exist of that sort; they are rather exceptions to the doctrines which I maintain. I can easily imagine that, even under the treaty with Spain, an attack by the Seminoles might be so sudden and unanticipated, that we might be justified in pursuing them even into Florida. But this necessity must not originate from the fault of the belligerent. If, as in the case before us, our neglect for so long a period to require of Spain the fulfilment of the treaty, or to represent to that Government, or even to its Minister here, the hostile intentions of the Indians, has brought this necessity upon ourselves, the fault is on our side. These Indian tribes, and their associates, have been represented as mere banditti, outlaws, renegadoes. If so, then Spain was answerable to us, on well settled principles, for their acts. But I ask, in what code of the law of nations is an authority asserted for one Government, at its own pleasure, to pursue banditti, outlaws, renegadoes, or even its own felons, into the territories of another, in any case, without first demanding that they should be delivered up? Sir, I will detain the commitee no longer on this part of these proceedings. When the order was issued for the advance of our army into Florida, Congress was in session. Subsequent events have shown how greatly it is to be lamented that an appeal had not been made to that body which could only change our relations with Spain, and which was then in the full exercise of its constitutional functions. I have been somewhat surprised at hearing the encomiums which have been bestowed on General Jackson for this incursion into Florida. A vote of thanks has been talked of. He has been called by the imposing names of conqueror, hero, benefactor. Conqueror! If the rout and dispersion of a race of barbarians, degraded and defenceless as the Seminoles, can confer this title, high, indeed, is his elevation. When Tigranes, with two hundred thousand men, had been defeated by Lucullus, with only twenty thousand, the Roman soldiers, after pursuing the enemy for some distance, suddenly stopped, and burst into loud laughter, to think that they had used their swords on such a set of cowardly slaves. Hero! If the blaze of burning towns, the extermination of their wretched inhabitants, the death of captives, and the extirpation of the human race, can confer renown and elevate our nature, glorious and ennobling, indeed, are these achievements. Benefactor! If the honor of our country, the dignity of its character, the justice of its institutions, and the purity of our religion, are sanctified by deeds like these, pour out your full libations of praise, and offer the unaffected homage of a nation's gratitude. How keenly does it wound the sensibility, how low should it sink the pride, of an American, to compare the laurels won upon the plains of Orleans with this sickening nightshade, plucked from the morasses of Florida!

As to the execution of Arbuthnot and Ambrister, I acquiesce in the moral justice of their sentence. Without expressing that opinion from the evidence on their trials, they probably deserved their fate. But I can never admit the legality of the trials, or the punishment which was inflicted. Had they been put to death in the heat of battle, considering the course which they have pursued, I should not have censured it, how much soever I should have regretted such an exercise of power. But they were tried by a court-martial. Such it was originally called in the despatches of General Jackson, and such it is recognized to have been in the letter to Mr. Erving.

I shall vote my disapprobation of the trials of Arbuthnot and Ambrister, because they were executed under the forms of law, and because I am not prepared to avow to the world, that we, who boast so much of our justice, recognize an institution of this nature. I am anxious to blot out this stain upon our national character. Their case was not within the jurisdiction of a court-martial. Courts-martial, among us, are but the mere creatures of positive law. All their authority is derived from the statute which creates them; without that they are nothing.

They can take cognizance of no offences whatever, except those specifically named in the statute. Their jurisdiction over persons is strictly confined to the army and those attached to it, and, without that express authority which has been conferred, I should doubt whether they, as courts-martial, had any jurisdiction even in the case of a spy. They are tribunals of special and limited jurisdiction; their powers cannot be extended by implication, and they are strictly confined to the powers expressly granted to them. What, sir, is the nature of these tribunals? The accuser prefers the charges; the accuser, in the first instance, selects the judges from his own subordinate officers; the accuser appoints the public advocate; the accuser approves or disapproves the sentence; and the accuser executes it. Lamentable would be our situation if courts-martial should be suffered to transgress a single letter of the law which creates them. Their proceedings are contrary to all those safeguards which the municipal law has provided for the security of personal liberty. The charges are not even sanctioned by an oath; the arrest is not founded on oath; the trial is without jury; the decision is in secret, and the correction of their errors depends on the pleasure of him to whom the sentence is submitted. It is now asserted that he may even alter it. By the municipal law of England and of this country, a judge who should venture to pronounce a sentence of death, contrary to the punishment which the law has prescribed; or an officer who should execute even a sentence of death in a different manner from the judgment, would suffer the punishment of death. Is there any thing, then, in the nature or proceedings of a military tribunal, which should induce us to view them with a more partial and indulgent eye? The sword is almost the only emblem of justice which guides them. Shall we now say to Europe that an American army, on entering a foreign country, carries with it these dreadful engines of human misery and oppression? With my consent these transactions shall never be recorded by history as the acts of the nation. Mr. S. here entered into an examination of the charges on which Arbuthnot and Ambrister were tried, and concluded that none of them (except that of being a spy, on which they were acquitted) were cognizable by a court-martial; that they were inconsistent and absurd; and that, as to Arbuthnot, he doubted whether sufficient evidence was produced to establish them.

MONDAY, January 25.

Seminole War.

The House then proceeded to the order of the day, and again took up, in Committee of the Whole, the report of the Military Committee, on the subject of the Seminole war.

Mr. BARBOUR, of Virginia, rose, and addressed the committee, as follows:

Mr. Chairman, it was my wish to have addressed the committee at an earlier period of the debate, but I have not been so fortunate as to get the floor. The subject under consideration is one which has excited much interest in this House, as well as in the nation. I have bestowed upon it all that reflection which was due to its importance: I feel a disposition to state the conclusions to which I have arrived, and the course of reasoning which has conducted me to them. I feel that I labor under great disadvantages in following gentlemen, whose eloquent and pathetic appeals have affected the feelings and commanded the attention of the committee; whilst, on my part, I have nothing to offer them but the plainest kind of argument, consisting of a statement of the case, and the principles of public and constitutional law which apply to it. I feel another disadvantage: Gentlemen who have gone before me have necessarily anticipated some of the points which I had intended to discuss. In presenting my view, then, in continuity, I must unavoidably recur to some topics which have been already touched upon; but I will promise, as far as I am able, when this shall be the case, to avoid the tedium of mere reiteration, and to endeavor to present them in some new point of light, and with some variety of illustration. I will, however, without further preface or apology, proceed at once to the argument.

This subject seems to me to present three distinct questions to our consideration: 1st, the propriety of marching the Army of the United States across the Florida line; 2dly, the propriety of the occupation of the Spanish posts of St. Marks and Pensacola, and the Barancas; and, 3dly, the trial and execution of Arbuthnot and Ambrister. These are the questions which, it seems to me, we are called upon to decide, and this the natural and consecutive order in which they present themselves. Each of these questions, too, as had been justly remarked by the Speaker in an early part of the debate, presents itself in a twofold aspect—1st, as between our own and a foreign Government; and, 2dly, as between our Government and its officers. First, then, as between the Government of the United States and Spain, had we a right to march our armies across the Florida line? I shall endeavor to prove that we had. There would be no sort of difficulty in this question, if it were the case of a nation confessedly sovereign and independent. That one nation when at war with another, has a right to pursue that other into its own territory, I am persuaded no member of the committee would question; and I shall, therefore, take it for granted, as one of those principles which, in public law, have become *axioms;* but the difficulty arises from the anomalous character of the Indian tribes. Gentlemen have gone much into the discussion upon the question, whether they are or are not sovereign. I shall not enter into a controversy about words; I care not whether they are called sovereign, demi-sovereign, or by what other name they are designated. I shall attempt to define their character by some of the attributes

of sovereignty which belong to them, or which at least they have been in the habitual practice of exercising. One of the criteria of sovereignty which has been adopted by *Martens*, a writer of some celebrity on public law, is this:

"That a nation is governed by its own laws, and acknowledges no legislative superior on earth; though there are certain limitations or restrictions on its sovereignty, by treaty or otherwise, if it possess this attribute, it is sovereign; and examples are given of States, which, though under treaties of alliance, of protection, and even of vassalage, are nevertheless considered sovereign."

If the character of the Indian tribes be tried by this standard, I believe they will be able to sustain their claim to sovereignty. True, it is, they have no regular legislative body, and no code of written laws, but they have customs and maxims, which may be considered as a sort of common law among them—which have been adopted either by express consent or tacit acquiescence—which have been consecrated by time, and handed down from one generation to another by traditionary history; by these maxims and customs are they governed, without any legislative superior, though we claim a right of regulating their trade, and a kind of pre-emptive right of purchasing their lands; yet I have never heard that we pretended to any right of legislating for them, or interfering in their interior concerns, in the administration of justice or otherwise. But there is another distinguishing and characteristic attribute of sovereignty which belongs to them, and which from the earliest settlement of this country they have exercised—I mean that of making war. This bears directly upon the present question. If they have a right of making war, they have a right to make it against whom they please, and they have chosen to make it against us. Have we not a right to defend ourselves against them? Yes, sir, and I will point you to the source from which we derive it. The principle of self-defence is a part of the instinct of our nature; "not written on the heart by precept, but engraven by destiny; not instilled by education, but infused at our nativity;" it belongs to us, as individuals, in a state of nature; we carry it with us when we form societies, which are only aggregations of individuals. We then have a right to defend ourselves against the Seminole Indians. But they reside within the limits of Florida, on lands to which they have at least the title of occupancy, but within the jurisdictional limits of Spain; from thence they make their incursions against us, and having committed their devastations and murders repass the Florida line. Shall we cease to pursue them when we reach that line? Is there any principle of national law which tells us that, in our pursuit, thus far we shall go, and no further? If these questions must be answered in the affirmative, then is the right of self-defence a mere mockery; then, indeed, are we in the situation of a man against whom a ferocious wild beast is let loose, and who, bound hand and foot, is cut off from the means of destroying him.

I come now, in the order of my argument, to the second question; that is, the propriety of the occupation of the Spanish posts of St. Marks and Pensacola, and the fortress of Barancas; and, first, its propriety as between Spain and the United States; and here, sir, at the threshold, I will lay down a principle, the correctness of which, I presume, will not be questioned—it is this: That, as it regards Spain, if any act shall have been committed which amounts to war, it is to be considered a public war; regularly carried on by the sovereign power of the United States. The different powers which constitute the whole mass of sovereignty, originally resident in a nation, may be separated or limited according to its will; in conformity with this idea, in the distribution of power, the Constitution of the United States has assigned to Congress that of making war. If the President shall ever encroach upon this constitutional power of Congress, either by engaging, without a previous declaration in an offensive war, or in the prosecution of a defensive one, by committing any act of hostility which may amount to war against a neutral nation, any question which may arise out of such a violation of the constitution, will be between himself and Congress. But, surely, it cannot be competent for a foreign power to open our constitution, construe it for us, define the distribution of the powers of sovereignty among the respective departments of our Government, and object that the President has impinged upon the sphere of Congressional jurisdiction. No, sir; as between us and Spain, admitting for the present, that what has been done amounts to war, it is to be considered and treated as a public war duly declared by the proper authority, and therefore to be followed by all the consequences which flow from one of that character. Assuming this, then, as a principle, the United States, as a Government, will stand justified, if we had just cause of war against Spain. Now, without recurring to ancient grievances, which have long been the subject of negotiation between the two nations, I think, sir, there are two palpable causes of war of recent date; the first is, the violation of her neutrality during and immediately after the late war with Great Britain, in suffering her territory, as well as forts erected on it, to be made use of by our enemies, to our great annoyance; the second is a violation of a positive treaty stipulation, in not only not restraining Indian hostilities, but, on the contrary, in giving them countenance and aid. It does not require a reference to books to prove that a violation of neutrality is cause of war; equally plain is the proposition, that the violation of a treaty stipulation is so too. It rests upon this obvious principle, that a positive stipulation in a treaty imposes a perfect obligation on one party, and consequently vests a perfect right in the other; for right and obligation are always correlative.

Now, the violation of a perfect right is on all hands considered as legitimate cause of war.

The next inquiry is, whether the conduct of the Spanish authorities be such as to make them associates in the war; if it were, they were, as I have already remarked, equally our enemies with the Indians, and liable to be treated as such without any necessity for a declaration of war. Vattel, in b. 3, ch. 6, s. 97, says, "I account associates of my enemy, those who assist him, in his war, without being obliged to it, by any treaty." If, sir, we had been left to this definition alone, it might have been fairly contended that the Spanish authorities were associates, because they assisted the Indians in the war, in various ways which I have already enumerated. But the author goes on, afterwards, in the same section, to explain, more particularly, this general proposition; and from a case which he puts, and the reasoning which follows, I acknowledge it to be my own opinion that the assistance afforded was not of that character which he requires, to make them associates, so as to authorize the occupation of those posts, without a declaration of war. Considering the subject in this point of view, it results that this part of the proceedings of the commanding General is not strictly defensible; and yet, sir, I cannot concur in a vote of censure upon his conduct; because, in relation to each of the points, to which I have just called the attention of the committee, the correctness of his course depends upon the decision of a question of degree only. Thus there is a degree of necessity which would justify the seizing and garrisoning a neutral fort, without violating the rights of the neutral to whom it belonged. And there is a degree of co-operation with the enemy, on the part of the Spanish authorities, which would have made them associates; and which would, consequently, have authorized the commanding General to have treated them as his enemies, without the necessity of a declaration of war against them. If, for example, our army had been in imminent danger of being cut off by the enemy, that would have justified their occupation, without making it an act of hostility. If the garrison of St. Marks, or Pensacola, had actually fought with the Indians, or if the Governor of Pensacola had executed his threat, by actually using force, either of these things would have made them completely associates. Here, then, was a graduated scale, before the commanding General, on which there was a degree, both of necessity and military co-operation, which would have strictly justified him. The question for him to decide was, which was that degree? Is there no difficulty in deciding this question? Yes, sir. The nation is divided upon it; the members of this House, after much investigation, after much debate, and quotations from public law, are greatly and variously divided in opinion. Some justify the whole proceedings, some justify a part and disapprove a part. Thus, some think the occupation of St. Marks correct, but not that of Pensacola; some justify the occupation of Pensacola, some approve both, whilst others disapprove both. What one gentleman thinks correct, another altogether reprobates: and even those who agree in the same conclusions, arrive at them by different modes of reasoning.

I come now, sir, in the order of my argument, to the trial and execution of Arbuthnot and Ambrister. I beg leave, in the first place, to call the attention of the committee to the facts, in relation to these two men. Arbuthnot was guilty of exciting and stirring up the Creek Indians to war against the United States, and of aiding and abetting them, by supporting them with the means of war. Ambrister led and commanded the Lower Creeks, in carrying on the war. These are the facts.

Since the institution of Government, if the citizen or subject of one country commit an ordinary outrage against the sovereignty of another, the mode of punishment is a plain and simple one, and is, I believe, almost universally acquiesced in throughout the civilized world. If the guilty person be within the jurisdiction of the offended sovereign, he, without difficulty, punishes him; if he escape and return into his own country, his own sovereign will either inflict exemplary punishment upon him, or, sometimes, deliver him up to the offended State, there to receive justice. But, sir, if, instead of its being an ordinary crime, it have a hostile character; if it be an act of war, in alliance with, or under the auspices of the enemies of the country against which the hostility is committed, then it assumes a different aspect; it is either sanctioned by the nation of the person committing it, or it is not; if it be sanctioned, then it is cause of war against that nation; if it be not, then the person, by thus committing an act of hostility, imparts to himself the character of the people with whom he unites himself. If they be civilized, he, in common with them, is entitled to the laws of civilized war. If they be savage, in like manner he must be content, having embarked himself upon the same bottom, to share the same fate. What that fate may rightfully be, will now be the subject of my inquiry; and here, sir, it will be necessary to ascend to first principles, in order to understand the rights of war, in the various circumstances in which nations may be placed.

"War," says Bynkershoek, page 2, "is a contest by force." The author goes on to remark, that every force is lawful in war; that it is lawful to destroy an enemy, though he be unarmed and defenceless; it is lawful to make use of poison, of missile weapons, &c.; in short, he adds, that every thing is lawful against an enemy. This, then, is the original and fundamental principle of the rights of war. In the progress of time, as civilization advanced, and moderation and philanthropy obtained a great prevalence, the nations of the earth have ingrafted upon this principle many modifications, the whole of which combined constitute what are called the usages of civilized warfare. Though, therefore, by the original principle

the mere existence of war made every individual, and every description of property belonging to each country, mutually and reciprocally hostile, and subject to destruction in every possible mode, yet, since the usages of civilized warfare were introduced, certain instruments of war are altogether reprobated, and persons as well as property of certain descriptions, and under particular circumstances, are spared. Sir, at the moment of expressing this sentiment, I behold one memorable exception to this mitigated rule, in an act perpetrated by a nation conspicuous for its civilization. I see the Capitol of my country just rearing its head from a heap of ruin and desolation; in its destruction a lasting monument of British outrage; in its re-edification a magnificent emblem of the recuperative energy of my country! But I will let the pall of oblivion fall upon any painful recollections—I will return to my subject. Those usages of civilized warfare which I mentioned a moment since to the committee, are the subject, though not of express yet of tacit compact; they are founded upon the idea of an equivalent, and based upon the principle of reciprocal obligation. Thus the language of one nation to another is, spare my monuments of art, and I will not ravage your country—spare my people engaged in the peaceable pursuits of agriculture, and I will spare your women and children. Am I asked for the proof of this? It is found at once in the doctrine of retaliation, universally recognized as a sound principle of public law. If, contrary to the rules of modern war, you put my soldiers, when made prisoners, to death, in return I may inflict the same severity upon yours, if, by the fortune of war, they shall chance to fall into my power; because, in this instance, as you have violated your part of the compact in relation to mitigated war, I am consequently absolved from mine, and restored to my original rights. What is an exception merely in civilized States, is the general rule in relation to savages; because, as they never acknowledge the obligations of the rules of modern war, they are without the pale of the compact, and can, therefore, claim no benefit from it. But as against them we have a right, if we choose, to exercise, in its fullest extent, the original rule which I have just laid down. True it is, sir, that we do extend to them many of the benefits of this compact, but it is a gratuitous act on our part, and what, therefore, they have no right to demand; for, in the language of Bynkershoek, though justice may be insisted on in war, yet generosity cannot.

Sir, it was Arbuthnot who poured the secret poison of discontent into the minds of the Indians; it was he who awakened the sleeping tiger and let him loose against us, with all his native ferocity whetted by exasperation; it was he who sharpened with new keenness the edge of the tomahawk; it was he who used the deluded savages as the instrument of his wicked purpose, as the man who stabs you to the heart makes use of the poniard. But, said the Speaker, we have never, in a long series of wars, practised retaliation for Indian barbarity. Sir, this is not retaliation. That consists in a literal execution of the great precept of "an eye for an eye, and a tooth for a tooth"—that "measures blood by drops, and bates not one in the repay." It is never appeased until it sacrifice just as many victims as the enemy has, and those, too, of the same grade, if within its reach. Thus, if the Indians had killed three hundred of our men, women, and children, we should, upon this principle, put to death an equal number of theirs. Retaliation then not only may, but frequently does, fall upon the innocent. The execution of these two men is, in the most prominent points of view, the reverse of this. Instead of the innocent, we have punished the guilty; instead of counting the victims, and sacrificing an equal number, though we have lost *hundreds*, we have only executed *units*. It is said, however, that we have never departed from the rules of modern war but in burning their habitations and destroying their food. Is this departure, indeed, allowable; and will gentlemen yet say, that it is not a measure of more rigorous severity than the death of the two men, who are the subject of this discussion?

When we destroy their habitations, we turn out, not only their warriors, but the old and the young, without respect to age or sex, without a roof to shelter them from the pelting of the pitiless storm. The miserable pittance of property which they own, is all consumed by the same devouring flame which destroys their dwellings and makes them houseless wanderers. When we destroy their food, we expose them to the danger of all the horrors of famine which may involve in indiscriminate death the guilty and the innocent; whilst, in the execution of these men, the guilty only have suffered. Gentlemen have, indeed, in the most glowing colors of pathetic eloquence portrayed to us the sufferings of Arbuthnot and Ambrister. If I could dip my pencil in as vivid colors as they have used, and if I had occasion to use them, I, too, could present a picture which, I am persuaded, would excite the keenest sympathies of the human heart. I would present to you, not two guilty men, suffering death according to the sentence of the law, but a scene of slaughtered innocence—not one or two suffering victims only, but a group, a family group. That is but a miniature painting. To make it as large as life, I would present you almost a national group. The figures represented on it would be, old men bending beneath a weight of years, inhumanly butchered; multitudes of women and children gored with wounds and weltering in their own blood; and others, sleeping in the arms of death, with here and there a solitary survivor to deplore their fate. But, sir, I will not attempt to harrow up the feelings of the committee by even a further description of such scenes—it is not necessary; for I cannot

but believe that the execution of these men stands justified by the laws of nature and of nations.

But, it has been objected, that whatever our rights may have been, it was not competent to the commanding General to execute them. Do gentlemen mean to say, that their offences were cognizable before any court having criminal jurisdiction? I answer, that they could not have been tried in the United States; because the acts were not committed within our jurisdictional limits. They could not have been tried in England, for the same reason. And, indeed, though the offences were committed within the territorial limits of Spain, yet the authors of them were on the lands owned, or at least occupied, by the Indians. I do not believe that they could have been tried there—for, I will ask, whether we should claim jurisdiction to punish an offence against a foreign Government, committed by an Indian on the lands occupied by his tribe within our boundary? This, however, is an objection to jurisdiction founded upon locality only. I assume a much higher ground. I object to it upon the ground of the nature and character of the act committed. My principle is this—that it is a right directly derived from, and appertaining to war, and, therefore, the civil power has no jurisdiction over it.

In regard to the court-martial, gentlemen say it had no jurisdiction. This is conceded to be correct; and I have attempted to show, that the power belonged to the commanding General. Although, however, the court had no jurisdiction to decide the fate of the two men, it was not improper through them to get at the facts; and though they had no jurisdiction, it would have been desirable that the General, after submitting the case to them, should have followed the sentence which they pronounced, but for an unanswerable reason, which, I believe, has already been urged, that the punishment which they pronounced in the case in which their sentence was not followed was unknown to the national law, and therefore could not properly be inflicted. I have thus, sir, shown, as I think, that the power of putting these men to death, belonged to us as one of the rights of war, and that it was legitimately exercised by the commanding General; and yet, sir, I acknowledge that I feel a regret at their execution—but what kind of regret? Just such as I would feel for the execution of a man who had been sentenced to death under the municipal law of the country, and in whose favor, under certain circumstances, I might join in a petition for a pardon, which petition was rejected. I could not, however, in the case which I have stated, concur in a vote of censure against the executive officer for refusing this pardon, because he has only executed the sentence of the law; because he has carried into effect the public justice of the country; and, because an act, conformably to law, and in accordance with the principles of justice, even if you call it stern justice, cannot be *morally wrong*.

Mr. SAWYER, of North Carolina, rose and said—

Mr. Chairman: As it is not my intention to go over the same grounds that other gentlemen have, my observations will be necessarily few. And I am sorry to be obliged to differ with my friend from New York, in the outset, with respect to the powers of this House over the present question.

I think the principle a new one, that Congress has no power to pass any resolution of condemnation or removal, nor of censure, of any military officer. If such a power exists, let it be pointed out. I have examined the constitution, clause by clause, for such a power, but I have searched in vain. The Legislative and Executive powers are distinctly marked and independently delegated, and we cannot pursue this course without infringing upon the rights of the Executive. He is, by the constitution, the Commander-in-chief of all our forces, and to him alone are our officers responsible. Besides, a resolution of this kind implies a censure on our Executive, by intimating that he had been so negligent in his duty or partial in his affections, as to permit a fault in one of his officers to pass unnoticed, which this House might think worthy of animadversion. I have too much confidence in the Executive to believe he would fail to do his duty, upon the commission of any criminal act on the part of General Jackson. But I am yet to learn whether such has been the case on the part of the General. What is the true state of the case? Arbuthnot and Ambrister were apprehended in the Indian country, under such circumstances as would have justified their immediate execution. But General Jackson, wishing to afford proofs to the world of their guilt, ordered a special court of inquiry to convene at St. Marks, the 26th of April last, for the purpose of investigating the charges, and imbodying the evidence against them. [Here, Mr. S. read the order, &c.] This court, as a court of inquiry, had no right to pass judgment. They were sitting merely as jurors, and were to find a verdict of guilty or not guilty. They did find the prisoners guilty of such charges as subjected them to the punishment of death. They found Arbuthnot guilty of both charges; exciting the Creek Indians to war against the United States, and of comforting and supporting the enemy, by furnishing him with the means to carry it on. This was, in fact, treason against the United States; for these Creek Indians were quasi citizens, enjoying the protection, and were under the jurisdiction of the United States, and, notwithstanding Arbuthnot was a foreigner, he could commit treason against the United States as well as a citizen, and would be either punished for it civilly, by being turned over to the civil authority, or by martial law, for such other offences as came under the cognizance of that tribunal. As to Ambrister, it was proved that he gave intelligence to the enemy, and he plead guilty to the second change, that of being a

party and even a leader in the war; of course, they brought on themselves and justly deserved that punishment, which the right of retaliation entitled us, and the orders of General Jackson commanded him, to inflict upon the savage foe. The prisoners being found guilty on such charges as subjected them to capital punishment, there was an end of the authority of the court, and it remained with General Jackson to apply the law of the military code, and see it executed. The opinion which the court thought proper afterwards to express, that the offence of Ambrister did not deserve capital punishment, could only be viewed by General Jackson as a recommendation to mercy by several respectable individuals; but which, in obedience to the laws of the army, he could not observe. But it was inconsistent with the sentence which they had already pronounced against Arbuthnot; for they had ordered him to be hung, although he was only an accessory in the war, and how could they condemn Ambrister to a less severe punishment, who was a principal in it! General Jackson was merely reconciling their own decisions, when he, at the same time, conformed to the laws of his country, which forbid the infliction of torture, and was the minister of even-handed justice, that "returned the poisoned chalice to their lips who prepared it."

Although I am hurt at the zeal with which I see this prosecution carried on, and the joy manifested at it from a certain quarter of the House, yet I cannot be so uncharitable as to impute their motives to the conduct of General Jackson prior to this event. Surely no gentleman within these walls can harbor a prejudice against him for his victories over any of our enemies. I must believe their motives are pure, but I cannot but think their views are erroneous. What would they have, even admitting, for argument's sake, that the conduct of General Jackson was not strictly legal? Would they wish to see that man, at his time of life, grown gray in his country's service, dragged before a military tribunal to answer for it? Can his age—can his services—can his victories—plead nothing? Must they all be buried at the shrine of two demi-devils, whose conduct has drawn tons of blood from an unoffending country's breast? I trust not. The blaze of Jackson's glory is too bright, in my eyes, to be obscured by the transaction. But the course proposed is very extraordinary. Are we a self-constituted tribunal, to whom General Jackson is responsible? What purpose can it serve to pass a resolution criminating the commanding General? Have we any authority, and can we claim the privilege of attacking the characters of the best and greatest men among us, and of depriving them of the most "precious jewels of their souls?" This is a new species of legislative domination, dangerous to the liberties of the people. If you claim the use of it, what man can be safe? There is no man of elevated rank but what may be obnoxious to some member of this House; and would it be right for him to use his privilege of a member to assail his character? Will the people endure to be dragged before this council of anatomists, to undergo the worst of all dissections? I for one will not, by any act of mine, sanction the extension of this censorial power over my constituents. The age of proscription, I trust, is over, never to be revived. There is a proper tribunal, clearly marked out by the constitution, for the punishment and censure of every grievance; to that tribunal General Jackson is answerable, and no other. If the President has omitted to do his duty, let the gentleman impeach him; but this criminating course, in this House, is mere *brutum fulmen*, without any corresponding power, but fraught with great mischief, by fixing a sting in the bosom of a person who is not permitted to be present to make his defence. What effect can the passage of this resolution have? Can it deprive General Jackson of his commission? If the President approves his conduct, will he be driven to act the ungrateful task of dismissing from his service the man whom he may think deserves well of his country, by any officious intermeddling on our part? Sir, I trust the President has too high a sense of his own rights and dignity. The Government—the people—have too high a sense of Jackson's merit, ever to give him up as a victim to the manes of such creatures as Arbuthnot and Ambrister. So far from censure, he deserves the grateful thanks of this House, and I trust he will receive them. I consider we are bound to tender him a vote of thanks, as a balm to his wounded spirit—as an antidote to the worst of all poisons—that which is inflicted with the tooth of ingratitude?

And here I beg leave to quote the General's own words, for, as ably as he has been defended on this floor, I believe his own defence, considering all circumstances, is nearly as good as any that can be made for him. I will take the liberty of reading an extract from his letter of the 5th of May last, dated at Fort Gadsden, to the Secretary of War. This letter affords another proof that he had the heart to conceive, the hand to execute, and the talents to defend, the best measures which the urgency of the occasion required.

"I hope the execution of these two unprincipled villains will prove an awful example to the world, and convince the Government of Great Britain, as well as her subjects, that certain, if slow, retribution awaits those unchristian wretches, who, by false promises, delude and excite an Indian tribe to all the horrid deeds of savage war. Previous to my leaving Fort Gadsden, I had occasion to address a communication to the Governor of Pensacola, on the subject of permitting supplies to pass up the Escambia River to Fort Crawford. This letter, with another from St Marks, on the subject of some United States clothing, shipped in a vessel in the employ of the Spanish Government to that post, I now enclose, with his reply. The Governor of Pensacola's refusal to my demand, cannot but be viewed as a hostile feeling on his part, particularly in connection with some circumstances reported to me from the most unquestionable authority. It has been stated that the In-

dians at war with the United States have free access into Pensacola, that they are kept advised, from that quarter, of all our movements; that they are supplied from thence with ammunition and munitions of war; and that they are now collecting in a body, to the amount of four or five hundred warriors, in that town; that inroads from thence have been lately made on the Alabama, in one of which eighteen settlers fell by the tomahawk. These statements compel me to make a movement to the west of the Appalachicola, and, should they prove correct, Pensacola must be occupied with an American force, the Governor treated according to his deserts, or as policy may dictate. I shall leave strong garrisons in Forts St. Marks, Gadsden, and Scott, and in Pensacola, should it be necessary to possess it. It becomes my duty to state it as my confirmed opinion, that so long as Spain has not the power or will to enforce the treaties by which she is solemnly bound to preserve the Indians within her territory at peace with the United States, no security can be given to our southern frontier, without occupying a cordon of posts along the shore. The moment the American army retires from Florida the war hatchet will be again raised, and the same scenes of indiscriminate massacre, with which our frontier settlers have been visited, will be repeated, so long as the Indians within the territory of Spain are exposed to the delusion of false prophets and poison of foreign intrigue; so long as they can receive ammunition, munitions of war, from pretended traders and Spanish commandants, it will be impossible to restrain their outrages. The burning their towns, destroying their stock and provisions, will produce but temporary embarrassments. Resupplied by Spanish authorities, they may concentrate and disperse at will, and keep up a lasting and predatory warfare against the United States, as expensive to our Government as harassing to our troops. The savages, therefore, must be made dependent on us, and cannot be kept at peace without being persuaded of the certainty of chastisement being inflicted on the commission of the first offence. I trust, therefore, that the measures which have been pursued will meet with the approbation of the President of the United States; they have been adopted in pursuance of your instructions, and under a firm conviction that they alone were calculated to insure peace and security to the Georgian frontier."

There would have been no end to the war, if he had permitted the enemy to retreat to those strongholds, the Spanish forts, without pursuing them with fiery expedition. The trial was made, and as soon as our forces retraced their steps, the Indians recommenced their system of robbing and murder. Does the gentleman require that we should be at the expense of keeping up a regular standing force throughout the whole extent of the Georgia frontier; to make it an armed barrier against the savages? Ought he not to be satisfied that the war has terminated in the manner it has, in the complete dispersion and conquest of the enemy, by the only mode in which it could be done promptly and completely? Ought he not to be thankful that his constituents can now pursue their peaceful avocations, without hourly apprehensions of murder and conflagration? If any irregularities have happened in the course of this war, leave it to be settled between us and Spain; let us not be guilty of such monstrous ingratitude to our worthy commander as to forget all his services, his midnight vigils, and his uniform success, by passing a string of resolutions which many of us do not comprehend, and which he never could have intended to violate. For, I believe it is not usual to censure a general for his success; he could have expected no worse had he been beaten. This is but poor encouragement to our officers.

TUESDAY, January 26.

Honor to Learning and Philanthropy.

Mr. BASSETT addressed the Chair, and said that he rose to perform a pleasing task, because it was connected with humanity. It was to give praise and honor where praise and honor were due. It was, continued Mr. B., said last night, from that chair, that sensible objects most forcibly attracted us. My heart responds to its truth. Most sensibly did I feel, on beholding in that chair a man whose life has been devoted to the amelioration of the state of man; one who, without influence of kindred or country, and without any aid save that of a common tongue, has passed the vast Atlantic, to make known the hidden powers and blessings of knowledge. Thousands, said Mr. B., are now enjoying the happy fruits of his exertions, and millions to come will reap their profits, and drink again and again of the never-failing spring. I should do injustice to the feelings of the House, to dwell on this subject. Mr. B. then submitted the following resolution, which was read and agreed to:

Resolved, That Joseph Lancaster, the friend of learning and of man, be admitted to a seat within the hall of the House of Representatives.

The bill for the relief of Hannah Ring and Luther Frink, was ordered to a third reading; and the bill for the relief of Lewis Joseph Beaulieu, was taken up, and ordered to lie on the table.

Regulation of Coins.

Mr. LOWNDES, from the committee appointed to inquire whether it be expedient to make any amendment in the laws which regulate the coins of the United States, and foreign coins, made the following report:

That the laws of the United States make all gold and silver coins issued from their Mint, and Spanish dollars, and the parts of such dollars, a legal tender for the payment of debts. The gold coins of Great Britain, Portugal, France, Spain, and the dominions of Spain, and the crowns and five franc pieces of France, are also declared to be a tender, by an act passed on the 29th of April, 1818. These coins, excepting the five franc pieces, had been made legal by two earlier acts, which had been allowed to expire, and their renewal, with slight modification, must be attributed, not to a disregard of the inconveniences which the use of coins so various and unequal in their purity must produce, but to the exigencies of a country endeavoring suddenly to recover a specie circulation. The act of 1816 was accordingly passed but

for three years, and will expire on the 29th of April, 1819, after which, no foreign coin but the Spanish dollar will, under our present laws, pass current as money within the United States. The act for establishing a Mint was passed in April, 1792, and it was then expected that foreign coins, including the Spanish dollar, might be disused after three years. But, neither an examination of the laws which regulate the currency of American and foreign coins, nor the observations of the effects which they have as yet produced, will justify us in expecting that a continued reliance upon them will enable us to dispense at any time with foreign coins.

To preserve the coins which are issued from the Mint from being melted and exported, the laws must give them some advantages in internal commerce over foreign coins of equal purity and weight. In respect to the gold coinage of the United States, the Mint depends for its supply of bullion upon banks or individuals, as it does in the coinage of silver. But there is a difficulty in the operations of the Mint, which is peculiar to the coinage of the gold. The relative value of gold to silver is fixed by our law at one to fifteen, which is much below the relative value which is assigned to it in all those countries from which we might have expected to procure it. In Spain and Portugal, the legal value of gold is to that of silver as one to sixteen; and in the colony of Spain with which our intercourse is most frequent and valuable, (Cuba,) its price in commerce is at least seventeen for one. Hence, we are not only precluded in the common course of trade from obtaining gold from these rich sources of supply, but the little which finds its way into the country from other quarters, is drawn from us by the higher estimate which is there placed upon it. In France, the legal value of gold is to that of silver nearly as 1 to 15 1-2. In most parts of Italy, it is somewhat higher. In England, silver coin is only current in small sums; but if a specie circulation shall be restored in that country on the basis of its present mint regulations, the relative value of gold to silver will be about 1 for 15 1-5. The exaction of a seignorage on its silver coins makes the comparison less easy; but the merchant who shall carry bullion to the British mint, will obtain very nearly the same amount of current money for one ounce of pure gold, or 15 1-5 of pure silver. In Holland, the relative value of gold to silver is estimated (if there have been no recent changes in respect to it) at 1 to about 14 3-4. In Germany, and the north of Europe, the value may be stated as rather below an average of 1 to 15. The West Indies, which are probably our most considerable bullion market, estimate gold in proportion to silver very little, if at all, below an average of 1 to 16. And this is done, although some of the most considerable colonies belong to powers whose laws assign to gold a lower relative value in their European dominions. This estimate, which was forced upon many of the colonies by the necessity of giving for gold the price which it commanded in their neighborhood, and particularly in the countries which formed the great sources of their supply, seems to indicate the fair proportion between the metals in the West Indies, since it is believed to have been, in most instances, confirmed by the colonial laws, rather than introduced by them. The difference established by custom in the United States, between coined gold and silver, before the establishment of the present Government, seems to have been nearly as 1 to 15 6-10. The difference proposed by Congress, in their resolution of the 8th of August, 1786, was nearly 1 to 15 1-4; and the reduction in the valuation of gold by the act of April 12th, 1792, to the proportion of 1 to 15, may be attributed to the belief, which was expressed in the report on which that act was founded, "that the highest actual proportion in any part of Europe, very little, if at all, exceeds 1 to 15; and that the average proportion was probably not more than 1 to 14 8-10." The difficulty of obtaining correct information upon points of this kind, makes it not improbable, that there may have been some error as to the state of the Mint regulations of Europe at the period of the report. But, be this as it may, the principle which seems to be assumed in it, that the valuation of gold in this country should be higher than in Europe, would lead to the conclusion, that the present valuation of 1 to 15 is too low.

This conclusion is confirmed by the circumstance of the contract made not long since, between the Bank of the United States and Messrs. Baring and Reed, for the supply of specie. Under this contract, gold and silver were to be furnished, if it were practicable, in equal amounts, according to the American relative valuation of 1 to 15. Upwards of two millions of dollars of silver have been accordingly supplied, but not an ounce of gold.

As the committee entertain no doubt that gold is estimated below its fair relative value, in comparison to silver, by the present regulations of the Mint; and as it can scarcely be considered as having formed a material part of our money circulation for the last twenty-six years, they have no hesitation in recommending that its valuation shall be raised, so as to make it bear a juster proportion to its price in the commercial world. But the smallest change which is likely to secure this object (a just proportion of gold coins in our circulation) is that which the committee prefer, and they believe it sufficient to restore gold to its original valuation in this country, of 1 to 15 6-10.

Seminole War.

The House then again proceeded, in Committee of the Whole, (Mr. PITKIN in the chair,) to the consideration of the report of the Military Committee, and the amendments moved thereto by Mr. COBB, touching the transactions of the Seminole war.

Mr. MERCER addressed the Chair as follows:

The resolutions before us have for their object neither a censure of General Jackson nor of the Executive. Pursuing the natural course of legislation, they ascertain the existence of a public abuse, and recommend the application of a constitutional corrective. They spring from an inquiry into the conduct of the Seminole war, to which the President's Message at the opening of the present session, called the attention of the House. It cannot be forgotten, that, during the two first administrations of the Federal Government, the President, at the commencement of every session of Congress, met in person the two Houses, convened together, and pronounced the address which his Secretary now conveys to us in the form of a Message. In relation to every part of the address, the two Houses separately exercised the unquestioned right of responding. These responses brought into brief review the whole course of administration. All the political acts

and the actors of the past year were held open to the scrutiny and opinion of either House.

Such was the operation given to this Government by the framers of the constitution, who filled the first Congress which assembled after its ratification. Such continued to be its operation for the first twelve years of its existence.

During the last eighteen years, this practice has been disused, but it would be difficult to prove that the powers of this House have been abridged by the substitution of the President's Message for his speech. Like the latter, the former yet undergoes, at the opening of each session, a political analysis, which terminates in the reference of every important member of it to some committee, charged with the duty of reporting an opinion upon the subject which it embraces, and of recommending, if necessary, some correspondent act of legislation. Hence the origin of the report which has given rise to the present debate.

Is it not absurd to imagine, even, said Mr. M., that the President of the United States can apprise this House that its highest powers have been usurped? That the constitution has been violated, and yet no complaint can be made of the usurpation, nor any exertion to prevent its recurrence?

I find myself arrested, Mr. Chairman, on the very threshold of my first proposition, by the assertion of one of my colleagues, (Mr. SMYTH,) that the Indians cannot wage war; because, he added, they do not make prisoners of war; while another honorable member, (Mr. JOHNSON,) who preceded him on the same side of the question, maintained that our statute book contains a declaration of perpetual war against all the Indian tribes within our limits. Let the statute book answer these extraordinary doctrines. The aborigines of this country have been our associates, or our neighbors, for more than two centuries; and we have maintained towards them, during that period, relations of commerce and amity, as well as of war, by the same means by which we have regulated our intercourse with other States. Instead of recurring to the treaty and correspondence of Ghent, allow me to consult the volume which I hold in my hand, and to ascertain, from our own intercourse with this unfortunate race of men, in what light we have hitherto regarded them. To ascend no further back than to the formation of our Union, the first volume of the laws of the United States will afford us Indian treaties, embracing every variety of stipulation known in the diplomatic intercourse of the most polished nations; from the articles of agreement and confederation with the Delaware nation, a treaty of alliance and commerce, concluded at Fort Pitt in 1798, down to the articles of agreement and capitulation, a treaty of conquest, but of peace also, concluded at Fort Jackson in 1814. In direct contradiction of the assertion of my colleague, we find among the intermediate conventions stipulations for the mutual exchange of prisoners of war; and, in hostility with the doctrine contended for by the honorable member from Kentucky, the far greater number of them are treaties of peace, promising the oblivion of past injuries, and the establishment of perpetual friendship. Nor will a recurrence to the history of the United States authorize an unfavorable comparison of the good faith of these untutored savages with that of our more polished European allies. With the Chickasaw and Choctaw nations we have made several treaties of boundary, but have had occasion to make no treaty of peace since that of Hopewell, concluded two and thirty years ago, under the old confederation. The treaty of Greenville, with the Northwestern Indians, endured from 1795 till the battle of Tippecanoe, in 1813. The first treaty with the Creeks and Seminoles, concluded with the White Chief, McGilvray, in New York, in 1790, was, with the exception of some border hostilities with Georgia, of questionable origin, and terminated by the treaty of Colerain, in June, 1796, preserved inviolate till 1815. Compare these dates, sir, with those of our treaties with England, France, and Spain. Call to mind the repeated violations of these treaties, and then ask your conscience if it will permit you to cast an imputation of bad faith on your savage neighbors.

It has not, and I presume will not be pretended, that the destruction of the negro and Indian fort near the mouth of the Appalachicola, was required by any absolute necessity. The Governor of Pensacola, so far from authorizing the act, expresses his expectation "that, until he receives the decision of his Captain General, no steps will be taken by the Government of the United States, or by General Jackson, prejudicial to the sovereignty of the King of Spain, or the district of Appalachicola, a dependency of his Government." It cannot be pretended that this hostile measure was taken with the consent of the Seminole Indians; and if, as I hope, it was done without the order of the President of the United States, it was certainly without any legitimate sanction—the authority of Congress.

If the alleged reason for this wanton injustice were deemed sufficient to warrant it, "that the fort had become a refuge for runaway negroes and disaffected Indians," where would it carry us? With what neighboring nation, civilized or savage, could we preserve relations of amity? Will it be pretended that we have a right to punish disaffection in those who owe us no allegiance; or to recover by violence the persons of our fugitives, whether bond or free? The attempt to gloss over this cruelty by the suggestion that the force of the miserable negroes was "daily increasing, and that the fertile banks of the Appalachicola were about to yield them every article of subsistence," is calculated to shed additional horror over a transaction wanton in its motive, and savage in its execution. A war upon the peaceful negro settlements on the Wabash would be equally politic, and, in principle, alike justifiable.

I have thus traced the Seminole war, Mr. Chairman, to the unauthorized invasion of East Florida in 1816; but, from thence to the month of October of the ensuing year, the terror inspired by this act seems not to have produced the usual retaliation of savages—the indulgence of private revenge. Along a line of four hundred and seventy miles, from the mouth of the St. Marys to the intersection of the Perdido, by the thirty-first degree of latitude, we hear, in fact, of scarcely an Indian aggression. The destruction of their fort, and the murder in cold blood of two of their chiefs, must have inspired the sentiment of hostility, but they wanted the means of indulging it. Even at the moment when the friendly Indians of Fowltown, who had preserved their neutrality during the whole Creek war, were assailed by order of the American General, there had been no invasion of our territory by any Indian force. Stories, indeed, sir, have been told us of Indian massacres, at the recital of which my very soul sickened; and, were it not for the documents on our table, I should believe that the tomahawk and scalping-knife had deluged our Southern frontier with blood. But, in addition to the President's declaration on the 16th of November, 1817, that we were at peace with the Indian tribes, I discover that, with but two exceptions, that murder of a family on St. Mary's River, and of some travellers five hundred miles off in the Alabama Territory—transactions which I deplore as much as any man—we were ourselves the aggressors. The unfortunate detachment of Scott, (the attack upon which is said to have given a new character to the Seminole war, and to have justified the invasion of Florida,) fell a victim to savage revenge, upon the river Appalachicola, without the territory of the United States. After the destruction of the Indian fort in the preceding year, was it too much to expect that the Seminole Indians would resist the progress of another armed force through the bosom of their territory? Had they to consult authorities for the right of self-defence? They recurred to that which nature has stamped upon the hearts of all men. Sir, these Indians are represented to have been sufficiently powerful to be the objects of our fears. They must be regarded as independent of us from our own express acknowledgment. Spain asserted that they had subverted her sovereignty; and, under our constitution, war could not be waged upon an independent neighboring power without the authority of Congress. At one moment, indeed, we hear the Indians of East Florida styled wretched savages, outlawed Creeks, fugitive slaves. At another they are represented to be capable of bringing a force of thirty-five hundred men into the field, a force equivalent to half our military establishment, and the most alarming necessity is plead to justify the infraction of the neutrality of Spain in our hostilities against them.

I will now proceed to consider the alleged necessity of seizing those fortresses. And, first, that of St. Marks. General Jackson, as early as the 25th day of March, soon after crossing the Florida line, announced his intention of taking St. Marks "as a depot for his supplies, should he find it in the possession of the Spaniards, they having supplied the Indians." That he derived no right to take it from the latter use of it, I have already demonstrated, and that he derived none from the use which he meant to make of it himself, an attention to the local position of St. Marks will readily evince. St. Marks is situated one hundred and four miles to the northwest of the Suwannee towns, the main object of General Jackson's campaign. It stands on the bank of the river to which it has given or owes its name, and nine miles above its mouth. The fort is surrounded by an open prairie, about two miles across, and below it extends an open forest of pine. As a military depot, a position below St. Marks, on the same river, would have been more accessible to the vessels, which were to furnish supplies from New Orleans; and the labor of a fatigue party, for a few days, would have constructed, of the adjacent forest, a protection sufficiently strong to resist the attack of any savage force which could have threatened the safety of the position. Such is the necessity, on which this infraction of neutral right is grounded. The Spanish fort deriving its supplies, also, from the water, would have been dependent on the American, and the danger of an Indian attack, which threatened St. Marks, before the arrival of the American army, had ended with its approach. Nor is it the least extenuation of this unauthorized act of war, that discoveries were made, after the capture of the fort, which evinced that its commander was unfriendly to the American arms. The antecedent act should be tried by its own evidence. The subsequent discoveries, if they amounted to any thing, constituted, as I have remarked, a cause of war against Spain, which General Jackson had no right to declare, or to wage, without a declaration.

St. Marks was more than a hundred miles from the Suwanee towns. To reach Pensacola, it was necessary to march across West Florida one hundred and fifty miles further from the principal theatre of the war. The necessity, however, which urged the occupation of the capital of West Florida is, if possible, less apparent than that which was plead for the seizure and occupation of St. Marks. The defeated Indians had retired down the peninsula of Florida, or crossed over it towards St. Augustine. Fort Gadsden and the Appalachicola River, to say nothing of St. Marks, then in our possession, cut off their retreat upon Pensacola. Above Pensacola itself, on the Cannco, a branch of the Escambia, Fort Crawford served as a check upon the Indians in that vicinity, and fifty miles from this last position stood the American fort Montgomery, on the Alabama. The desert country between the Appalachicola and the Bay of Pensacola, contained neither Spaniards nor Indians; yet, on the 5th of May,

after having discharged a part of his force, and proclaimed the war to be at an end, General Jackson announces to his Government his intention to occupy Pensacola, if certain reports, which he had heard, should prove true, while the whole tenor of his letter of that date evinces a determination to occupy it at all events. He expresses it to be his confirmed opinion, "that, so long as Spain has not the power or will to enforce the treaty, by which she is solemnly bound to preserve the Indians within her territory at peace with the United States, no security can be given to our Southern frontier, without occupying a cordon of posts along the seashore." After the seizure of Pensacola, he enforces the same reasoning, in an argument in favor of its restoration.

In the subsequent proceedings of General Jackson, a more striking illustration is offered of the extent to which his conduct was influenced by this threat. Not satisfied with the seizure of Pensacola, without resistance, he proceeded fourteen miles below it, invested, and, after a heavy cannonade of many hours, took the fortress of the Barancas and the Governor, by capitulation. Nor did he stop here; but, regarding the Spanish troops as prisoners of war, and all West Florida as a conquered country, he shipped the former to the Havana, and usurped over the latter the civil, as well as military, administration. One of my honorable colleagues has, with singular felicity, offered the same apology for these defensive measures of the American commander which he allows to the Emperor of France for subverting the Prussian monarchy. The honor of the French arms required that a threat should be repelled! Sir, the force of the argument will appear very nearly the same, in both cases, when reference is had to the relative strength of the combatants; but there is this remarkable difference between the Emperor of France and General Jackson, that the former was the acknowledged sovereign of France, and the latter had merely usurped the authority of Congress to make war upon a foreign State. Whether General Jackson's conduct was in obedience to his orders, as my honorable colleague (Mr. SMYTH) has so earnestly and ingeniously maintained, is a question between him and the authority from which he derived them, except so far as regards the pernicious example of military insubordination, which is afforded by the impunity of this act.

Allow me, also, Mr. Chairman, to say, that, although Spain, in my opinion, has given us ample cause of war, I am decidedly opposed to a declaration of hostilities against her. We claim, I understand, as our western boundary, the territory west of the Mississippi, as far as the Rio del Norte. If by treaty it is ours, let it be occupied by our arms; and, having taken possession of that which belongs to us, let us tender to Spain the exchange of that part of it adjacent to her Mexican possessions, for Florida, which she does not want, and which would be to us of great value. If she shall now reject this proposition, the time must speedily arrive when she will perceive it to be her interest to accede to it. So far would I go, and no farther. Not from any apprehension of the power of Spain, but for reasons of policy, too obvious to require to be enforced. A war, even with Spain, would cripple that commerce, on the prosperity of which materially depends the future growth of our yet infant navy. In such a war we would have to contend, not with Spain alone, but to encounter, under the disguise of a Spanish flag, the enterprise and resources of France, of England, and I greatly fear of some of the most abandoned of our own citizens.

Having, Mr. Chairman, consumed so much of the time of the committee on the first propositions which I proposed to sustain, I shall pass, with more brevity, over the last, which involves the character rather than the constitution of our Government. In the inquiry, whether the rules of judicial proceeding in the trial of military officers have been wantonly disregarded in the trial and execution of Arbuthnot and Ambrister, an unexpected difficulty is started by our opponents, who question whether the special court which tried them was a court-martial, or a mere board of officers. It was not sufficient, it seems, that General Jackson informed the Secretary of War that "Arbuthnot and Ambrister were tried under his orders by a special court of select officers; legally convicted; legally condemned; and most justly punished:" or, that he calls the court a court-martial wherever he speaks of it, whether in his letters, or his general orders. His friends, acknowledging their utter incapacity to defend him, on his grounds, persist in denominating the court a mere board of officers. Its proceedings they regard as subject to no legal restraint; its judgment as mere counsel or advice, submitted to the discretion of the General, to be altered or extended at his mere pleasure. Is their view then, sir, correct? Were Arbuthnot and Ambrister tried by a court-martial, or merely examined by a board of officers? A court-martial is either a general court for the trial of all offences whatever, or a regimental or garrison court, for the trial of offences not capital. The former must consist of five, and may consist of thirteen officers. The latter cannot exceed three. A prisoner was here sentenced to death, and the assemblage of officers who sentenced him to that punishment consisted of thirteen; it was, therefore, either a general court-martial or no court at all. A general court-martial is required, by the rules and articles of war, to consist of "any number of commissioned officers from five to thirteen; but it shall not consist of less than thirteen, where that number can be convened without manifest injury to the service." The court which tried Arbuthnot and Ambrister consisted of thirteen officers, with a supernumerary appointed to act, in case of unforeseen absence or incapacity of any one of that number. A general court-martial is re-

quired to have a judge advocate, whose duty it is to administer to the officers the oath prescribed by the sixty-ninth article of war, and to act as counsel for the accused as well as the court. The court which tried Arbuthnot and Ambrister had a judge advocate, who administered the oath required by law, and interrogated the witnesses. The prisoner may challenge any member of a general court-martial appointed to try him. Arbuthnot and Ambrister were called upon to exercise this privilege. The prisoner before a court-martial is regularly arraigned upon charges and specifications filed against him. So were Arbuthnot and Ambrister. He is entitled to counsel if he requires it. Arbuthnot made application for counsel, and counsel was allowed him. A court-martial sits with open doors, except when it decides a question, and then the doors are closed. So proceeded the court which tried these prisoners. A court-martial has only a limited jurisdiction, both as to offences and persons. So this court decided, for, of the third charge and specification against Arbuthnot, the court decided, "upon the suggestion of a member, after mature deliberation, that it had no jurisdiction." A court-martial can sit, unless by express permission from the officer creating it, only between certain hours of the day. This court was, by order, allowed to sit without regard to hours. In the organization of a general court-martial the members are seated alternately, according to rank, on each side of the President. So was this court arranged. A court-martial records, along with a minute of its proceedings, all the testimony laid before it. So did this court. It is its special province to decide on the guilt or innocence of the accused, and on the punishment, if any, which shall be inflicted upon them. So was this court required to do, and so it did. A general court-martial is required to pronounce upon every charge and specification exhibited against a prisoner. This court obeyed this requisition by acquitting the prisoner, Arbuthnot, of being a spy, and responding to all the charges and specifications against him except that, of which they disclaimed any jurisdiction. A general court-martial cannot sentence a prisoner to death, without the concurrence of two-thirds of its members. A concurrence of two-thirds of the court is here certified.

The general order of the 29th of April, commanding the immediate execution of Arbuthnot and Ambrister, uncondemned even to this day, nay, more than tacitly approved, is, Mr. Chairman, a stain on the records of the judicial proceedings of this nation, to the insecurity of the honor and life of every officer and soldier of the armies of the United States, and of every citizen of America, who may be legally, or otherwise, subjected to the judgment of a court-martial; a proceeding which imperiously calls for the interposition of the authority of Congress, in order that, instead of being converted into a precedent for future imitation, it may be shunned as an object of abhorrence. Sir, it is no little cause of alarm to behold the highest military court of criminal justice, which should be the shield of innocence, converted into a rod of oppression. While I listened with equal attention and delight to the eloquent and able argument of my honorable friend from New York, I thought that even he underrated the security which a military court is designed to afford to an innocent prisoner. I thought he supposed that a military judge was not sworn to discharge the duties of his office with fidelity and impartiality. [Mr. STORRS arose to explain. He had remarked, he said, that the charges were not sworn to on which a prisoner was arrested.] I misunderstood my honorable friend, said Mr. MERCER; but even here the charge must be sanctioned by the honor of an officer. A general court-martial derives its appointment from the sound discretion of the highest military authority in an army; its sentence is inoperative until it receives his approbation; and any officer who should seek, by the instrumentality of such a court, to gratify secret resentment or malignity, would render himself odious to his whole corps.

Who, sir, were the other captives condemned to death? It has been said of some of the Suwanee chiefs, that he was the author of the massacre of Scott's detachment, destroyed, as I have proved, in that Indian territory which our army was not only preparing to invade, but had, in fact, invaded; and the participation of this chief in the bloody massacre which closed this scene, is unsustained by any proof whatever.

As to his unfortunate comrade, the Indian Prophet, what are his imputed crimes? That he was, himself, the victim of superstition; that he deluded his wretched followers. Such was the guilt, sir, of all the augurs and soothsayers of the ancient republics, sometimes Prætors, Consuls, and Dictators, not to Rome alone, but to a conquered world. A guilt, in which lies still involved three-fourths of the human race; many of whom yet groan, in cities, in palaces, and temples, beneath a superstition, compared with which, the religion of the wandering inhabitants of our western wilds is simple, peaceful, and consolatory. Or did his guilt consist in returning home with a foreign commission, after having crossed the Atlantic in quest of aid, to sustain the sinking fortune of his tribe? Has it, then, become a crime, in our day, to love our country; to plead her wrongs; to maintain her rights; or to die in her defence? Sir, had not the God I worship, a God of mercy as well as truth, taught me to forgive mine enemies, did he, as the Great Spirit whom the Seminole adores, allow me to indulge revenge; were I an Indian, I would swear eternal hatred to your race. What crimes have they committed against us, that we have not, with superior skill, practised upon them? Whither are they gone? How many of them have been sent to untimely graves? How many driven from

their lawful possessions? Their tribes and their very names are almost extinct. My honorable colleague, (Mr. BARBOUR,) who differs from us on this question—my honorable friend I will call him, for he inspired that sentiment, while he eloquently described the wrongs and sufferings of this unhappy race—will not condemn in a poor Seminole Indian that love of country, of which, if it be indeed a crime, no man is more guilty than himself. But it seems he was an Indian. The Suwanee chief, his comrade, was so too. Arbuthnot and Ambrister, who inspired their counsels and led them to combat, are to be regarded as themselves, and, under the law of retaliation, they were all liable to suffer death, at the pleasure of General Jackson. And thus, Mr. Chairman, the clemency which has been observed, for two centuries, in all our conflicts with the aborigines of America, is at length discovered to have been an impolitic abandonment of the rights which we derive from the laws and usages of war. Nay, sir, the victories of all our former commanders, in all other Indian wars, are cast into the shade, in order to magnify the effect of this new policy. In the hard-fought battle of Point Pleasant, in which I have heard that three hundred Virginians fell, my colleague (Mr. SMYTH) tells us, that only eighteen Indian warriors were found dead on the field. Before the impetuous charge of the gallant Wayne, but twenty fell. At Tippecanoe, but thirty. On the banks of the Tallapoosa, General Jackson left eight hundred Indians dead. Sir, it is consolatory to humanity to look beyond these fields of slaughter, to the peace which followed them, the only object of a just war. From the battle of Point Pleasant to the present day, Indian hostilities have ceased in Virginia. The victories of Wayne led to the treaty of Greenville, and was followed by a peace of eighteen years. The treaties of Hopewell, of New York, and of Colerain, preceded by no battles, were succeeded by a peace, which, with the Creeks and Seminoles, it required, after the lapse of nineteen years, another British war to disturb; and which, with the Choctaw and Chickasaw Indians, endures to this moment. While the splendid victory of Tallapoosa, and the treaty of Fort Jackson, have not yet, it is said, secured to us peace, although aided by our new code of retaliation, and its practical commentary, the execution, in cold blood, of four Indian captives.

Mr. COLSTON said that he rose at that late period of the debate, trusting that the committee would excuse his trespassing, for a short time, upon their attention, whilst he discharged his duty to himself, his constituents, and his country, by expressing his sentiments on this important question, involving, as it did, the constitution and laws of the country. In the investigation of it, he would not be deterred from expressing his opinion freely, either by the declarations of those high in authority, that General Jackson's conduct must be defended, or by the character of the individual who was the subject of this investigation, or by any of those means which had been used to prevent the expression of disapprobation by those who thought his conduct censurable.

Sir, had an ordinary man said that the Governor of an independent State had no right to issue a military order to the militia of that State, under his command, whilst an officer of the United States was in service, we should have smiled at his ignorance of our peculiar form of Government; but the same doctrine, coming from General Jackson, becomes dangerous. Had one individual indulged in the same style of correspondence with another individual, which is used in the letters to the Governor of Georgia, we should have considered it rude; but, coming from a general in the service of the United States, and that officer General Jackson, it has an awful squinting towards the degradation of State authorities—the prostration of State sovereignties, with the preservation of which is connected the best interests of this nation. And, finally, had a man unknown to fame, executed two individuals, without any law of this nation to justify it, we should have found no difficulty in giving to the deed a name; but, when it is done under claim of military authority, it constitutes a political offence of a much higher and more dangerous nature. Such acts, he must confess, roused all his jealousy of military power and military usurpations.

With regard to entering Florida, much national law had been quoted to justify the measure; but all those principles apply to sovereign powers, and only serve to show that this nation, in its high sovereign capacity, would have had a right to order its armies into that province, without giving just cause of offence to Spain. But where is this sovereign power lodged by the constitution of this country? In Congress, unquestionably, and not in the Executive. I am not prepared, however, to say that, being once involved in war with the Seminoles, the Executive had no right, even under our form of Government, to order the troops into Florida, without the consent of Congress, as an incident to that war. But here another question will arise as to the power of the Executive to enter into that war, without a law. The wars which have heretofore been waged against Indian nations have always been against those within our acknowledged territorial limits. The use of the army against them has resembled more the case of suppressing an internal enemy, than waging a foreign war. The President, therefore, has, under the authority of a general law, exercised the power of calling out the militia, and sending against them the military force of the United States, without a particular law to authorize it; but surely the case is very different in relation to Indian nations without our territorial limits, and, as far as regards us, to all intents and purposes independent. With regard to these, he

had no doubt the assent of Congress to the war was as necessary by the constitution as in any other war whatever, although he had no doubt the omission to obtain that assent arose from the former practice of the Government, and their not having reflected upon the change in circumstances, which, in the present instance, required a change of that practice. He was never disposed to blame, upon slight grounds, the Executive Magistrate of the Government. But these two last questions were entirely of a domestic nature, and were only differences of opinion as to the mode of exercising a right unquestionably belonging to the nation; and, as he before observed, that Spain had no right to complain of the entrance into Florida, so also she has no right to inquire into the legality of this war against the Seminoles. But, with regard to other acts in the progress of the war, of which Spain has just reason to complain, which might have involved this nation in a foreign war, and which did, in effect, amount to a war on her part against Spain, let us again recur to the original question, whether they proceed from the Executive, or were the acts of General Jackson, upon his own responsibility.

To ascertain this, let us examine his orders. They were given to General Gaines on the 16th of December, 1817, and are referred to in the order directing General Jackson to take the command of the army. In those orders the Executive strictly conforms to the established laws of nations; they permit the army to cross the Florida line, if necessary, but expressly direct that, if the Indians should even take shelter under a Spanish fort, and be protected by them, not to attack the place, but report it to the War Department, and wait for further orders. Did General Jackson obey these orders? Let St. Marks, Pensacola, and the Barancas answer. But I am not disposed to censure General Jackson unjustly; there may have been some reason for his taking St. Marks, notwithstanding his orders. As far as the laws of nations are concerned, it might certainly be justified by a milder code than that from which he has drawn his definition of a pirate. But where was the necessity of taking Pensacola and the Barancas? General Jackson himself shows that there was none; for, in his letter of the 20th of April, he states that the war may be considered at an end—that only a few Red Sticks, &c., remained, who were not a formidable enemy, and that even if the war were renewed, the posts they then had, with only a small military force, would be sufficient to restrain the Indians. If this be the case, where the necessity of taking Pensacola? General Jackson himself does not put it upon the ground of necessity, nor entirely upon the ground of their hostility, manifested by affording comfort and supplies to the Indians; for that could not have justified him, inasmuch as his orders had forbidden him to attack a Spanish fort, even under circumstances of much greater hostility, viz., the Indians taking shelter under it, and being protected by it. What, then, is the immediate cause assigned for the capture of that place? He states that on the 23d of May, being then in full march towards Pensacola, he received a protest from the Governor of that place, which protest Mr. C. was surprised to hear some gentlemen call a threat. Now, what was this protest? Only that he disapproved of General Jackson's conduct in approaching his command with a large military force, in a time of profound peace between the two nations, without having given those explanations and security against aggressions which the neutral has always a right to demand; and a declaration, that, if the aggression was continued, that is, his post attacked, he should repel force by force. And this General Jackson construes into such a manifestation of hostility, that he no longer hesitated upon the course to be pursued, but marched the next day to take possession of the place. A manifestation of hostility, sir! What could the Spanish officer have done less? He did his duty merely, and less would have been inconsistent with his own honor, or that of his nation. In this transaction, sir, General Jackson seems to have yielded to the impressions of anger, that any one should have dared to oppose the slightest obstacle to his wishes. He took the place in violation of his orders; and, in violating them, he violated the constitution of his country, and for this the Congress of the United States should express their decided disapprobation. And yet some gentlemen speak of voting thanks. Thanks, sir, for what? Mr. C. confessed that, for his part, in the conduct of the Seminole war, he saw but little to approve, and much, very much, to censure.

WEDNESDAY, January 27.

Seminole War.

The House then proceeded to the orders of the day, and resumed in Committee of the Whole, (Mr. NELSON in the chair,) the report of the Military Committee on the subject of the Seminole war.

Mr. STROTHER said, that at that late hour of the day, when the subject had been so much exhausted, and the attention of the committee so much wearied, he with reluctance engaged in the debate; but his excuse would be found in the artificial importance the subject had assumed by the wide excursions in which gentlemen had indulged, embracing, in the scope of their arguments, not only the illustrious chief against whom the attack is directly aimed, but mounting up to the Executive, and charging him with a violation of the constitution.

He said, the advocates of these resolutions claimed to be the exclusive guardians of the constitution: a portion of them, he admitted, held the title by prescription; they had sounded the tocsin when the midnight judiciary disappeared; they had raised a warning voice against the embargo, and the whole restrictive

system, as infractions of that sacred charter; and they protested against rejoicing for the brilliant victories achieved by our heroic armies and gallant navy, as unbecoming a moral and religious people: when now called upon, as formerly, to put the finger upon the principle which is wounded in that instrument, they cannot agree upon the point where it is to be found; it was an intangible, fleeting principle, which eludes the grasp of examination. He claimed no participation in the vision, but he claimed a conscientious discharge of duty, and the credit of the humble endeavor to vindicate the honor of the nation, and to preserve the constitution inviolate.

He objected to the mode of proceeding; he denied Congress had power to proceed in this manner; the bright page that records the immortal deeds of our ancestors, and the happiness of this favored people, is shaded by the paroxysms of party heat. The Congress of the United States once stepped down from the elevated duties of legislation, to censure the self-created democratic societies; it was then the eloquent Ames sung the syren song that spell-bound the people: the delusion was but for a season; the enchantment dissolved; the nation awakened from its trance, and, gifted with the energy that freedom bestows, sprung upon that basis of correct principle upon which the present Administration stands; then the democratic party contended, in vain, that the right to the proceeding was not vested in this House. On another occasion, when the army, commanded by St. Clair, sustained a bloody and disastrous defeat, a democratic member proposed a resolution, requesting the then President, General WASHINGTON, to set on foot an inquiry into the causes of that inglorious affair; the Federal majority rejected the proposition as unconstitutional, and improperly interfering with the powers of the Executive department.

Each party was correct when contending for the negative, as will appear from an examination of the question. This is a Government of departments, shedding light, emitting heat, and promoting political health. When each revolves in its peculiar orbit, the limits and extent of each are distinctly marked out in the constitution. Congress can speak an army into existence; by repealing the law that gave it being, you annihilate it; or, by refusing to appropriate the means of subsistence, it languishes and expires. The management of this army is placed in the hands of the Executive; speak it into existence, it bounds into another sphere beyond your control. This division of power is wisely ordained—guarding against this dangerous machine by legislative jealousy, and giving it energy and promptitude of movement by the Executive. This army, existing by your will, is only responsible to the Executive and the Judiciary. Personal wrong, and the invasion of private rights, give the courts jurisdiction. If the peace of the nation is compromitted, and its honor tarnished, the Executive holds the corrective; and, if this high constitutional officer sleeps at his post; if he shield the delinquent, and hesitates to redeem the sullied justice of his country, he becomes accessory—is implicated in the guilt, and subjects himself to punishment, by impeachment. The inconvenience and impracticability of exercising this power, prove it is not granted to this department of the Government. If it is your right and your duty to stoop beneath the Commander-in-chief, to lay hold of a Major General, it is equally incumbent upon you to descend into the ranks; place a private soldier into legislative inquisition, and gravely discuss, and sagely decide, upon his demerits. The doctrine contended for lays hold of both ends of the Military Establishment. He said, amidst the awful convulsions of the French revolution, the convention wasted an entire night in examining a sergeant; descending from "riding in the whirlwind, and directing the storm," to the examination of a soldier. Some claim the right to censure, as the correlative of the practice of giving thanks. He denied that this practice was predicated upon right. This is no novel idea, intended for the present moment. In a proposition to return thanks to General Wayne, for the brilliant victory of the Miami, Mr. Tracy and others denied that Congress possessed this power. The practice has grown out of usurpation. It can only be claimed upon the presupposition that Congress represent the entire sovereignty of the people, and reflect their feelings. On the contrary, the members of this House are only special agents, for limited and defined purposes. This power is not delegated to you by any affirmative grant, nor is it incidental to any express grant. When Congress, warmed by the gratitude which glowed in the bosom of this nation, poured out the rich libation of its thanks, and entwined the laurel around the brow of the hero, no one paused to inquire if, beneath the leaf, the asp was hid, whose poison would wither that laurel, and sting the wearer to death.

No, sir, this people have not constituted you the agents to confer her thanks, or to select objects of benevolence, and distribute her gratuities. More arduous employments are assigned—more important duties imposed. You have been tolerated in weaving eulogies, and braiding and festooning them with all the art of taste and criticism, to decorate the favorite of the day. It was an innocent waste of time; it did not render a heroic deed more brilliant, nor did it sully the bright chastity of a well-earned renown. But when you censure, you desert legislation; you exercise high judicial power; you inflict punishments upon ex parte examination; you deprive a man of that property which he holds in a cherished reputation; that property which he hugs nearest to his heart, and which is the richest and most precious patrimony of his descendants; your censure "rives and blasts like the lightning of heaven," leaving its victim exposed to scorn and contumely, and brings

him to trial, if a military court shall be ordered, with presumed guilt, and anticipated conviction. By practice you are the grand almoners of the nation. In the spirit of beneficence, you made a magnificent donation to a South American province; charity cast her mantle over the act, and the nation would not rend the veil. Sir, this nation has a heart to feel, and magnanimity to forgive, when the error is on the side of generosity and humanity. Build upon this acquiescence a right to punish; touch but a vested right in the humblest citizen, and its justice will lead you back to the constitution, the instrument of your power and their protection.

But, admitting that this House possess the power, the transactions of the Seminole war do not justify its exercise. The advocates of the resolutions, by different routes, arrive at one common conclusion: one contends that the President made war, and usurped the powers of this House; others take post at the thirty-first degree of south latitude, and some few push on to Pensacola, and contend that there the original sin was committed—there the forbidden fruit was eaten that stains the whole Government with the guilt of violating the constitution, and insulting the majesty of the King of Spain. Many, to be sure, Mr. Chairman, drop by the way, and fill up the intermediate chasms. Did the President make war, and usurp the powers of Congress, the just exposition of our constitution is best seen, and most clearly understood, in the uninterrupted practice of this Government. The Administration of Washington, to which we all look with pride, and many with regret, as the good old constitutional times, presents the first link in that chain of precedent which reaches down to the present transaction. This Government found several of the States engaged in hostilities with the Indians. The President communicated this circumstance to the first Congress, who immediately appropriated money; and a bloody contest ensued, distinguished only by appropriations and defeat. Harmar's army sprung from an appropriation bill; that commanded by the unfortunate St. Clair stood upon the same basis, and when its disastrous defeat roused the Government to the miserable condition of the frontier, the military establishment was considerably increased, and placed under the command of the gallant Wayne, who infused his martial spirit into that army, and achieved the victory which gave peace and tranquillity to the harassed and bleeding frontier. As early as 1792, Congress vested power in the President to call out the militia to suppress insurrections, or repel invasion from any foreign power or Indian tribe. The power transferred by that act being insufficient to the purpose contemplated, in 1795 another law was enacted, clothing him with further power—authorizing him to take advantage of the indications of hostility—to anticipate the approach of the storm, and to strike before the elements of havoc and desolation were collected together, and poured upon the frontier in fire and indiscriminate massacre.

Those who then filled the Government were fresh from the Revolution, and were animated by the spirit which is embodied in your constitution. No passion then existed in which could flourish party spirit; it could germinate, but to expire, in the then pure state of our political atmosphere; in the calm light of mild philosophy, they examined their duties and transferred this power; these were the men who worshipped Liberty in her favorite temple, in sincerity and in truth; these were the men whose blood and suffering elevated you to the rank of a nation, and whose wisdom gave you a constitution which breaks upon the view of enslaved and benighted Europe, like the star in the East, happy harbinger of hope, proclaiming there is power sufficient to redeem from thraldom and misery.

This treaty is said to have violated the religion of the Indians, by demanding their prophets: and they appeal to modern Europe and ancient Rome, to suffuse the American cheek with the blush of guilt. Those prophets were not the ministers of religion—they were political agitators; instigators to war, they were not the messengers of peace and good will towards man, that stilled the tempest of the savage soul, and called the chaos into light and order; they were the fit and supple instruments of Woodbine; they breathed confusion and havoc—humanity to these Indians, and the interest of this country, demanded their surrender. Rome never lost sight of policy; she transplanted the idols of the subdued provinces, and incorporated them with her gods; and by the strong tie of superstition, chained the province to the foot of the Capitol. Yet the Druids were extirpated, and the forests of Germany tell a bloody tale. These forests still echo the expiring groans of those priests who smoothed the brow of the rugged warrior in peace, and nerved his arm in the hour of battle. England extracts a revenue from the idolatrous worshippers of the bloody Juggernaut, whilst the Irish Catholic, who believes in the same God, and relies upon the same Redeemer, is torn from the horns of the altar, a victim to ecclesiastical pride, and the jealousy of despotism. The genius of these polished and religious courts, passed from those seats of science and the arts, into the wilds of Africa; it dealt in slavery and blood, and sundered every tie that connects man to his species. It spread its wings over the East Indies—fifty millions of human beings have there for years, been hunted as lawful prey, in the indiscriminate chase of death. The timid Hindoo has been swept from the plains, and is now pursued to the mountain top, where he sought refuge amidst the clouds. This Government need not hang its head upon an appeal to Europe, unless the mere glitter of a diadem shall dazzle and confuse.

Sir, he said, the western frontier is that portion of the world where civilization is making

the most rapid and extensive conquest on the wilderness, carrying in its train the Christian religion, and all the social virtues. It is the point where the race of man is most progressive; establish but the principle, that the God of nature has limited your march in that direction—that the Indian is lord paramount of that wide domain, around which justice and religion have drawn a circle which you dare not pass—the progress of mankind is arrested, and you condemn one of the most beautiful and fertile tracts of the earth to perpetual sterility, as the hunting ground of a few savages. The most celebrated philosophers have spoken a different language, and the ermine of the judiciary has interposed against these theories, and, without a stain, given this country to civilization and Christianity.

Mr. Chairman, it cannot now be denied, that, this being a defensive war, resulting from the necessity of repelling invasion, military movement was the bounden duty of the Executive, not only upon the principle of self-preservation—a law written by the finger of nature upon all animated creation—but under the practice of the Government and the laws of the country; and it will be found that the rights of war, extended to the management of the war by the international law, were exercised with extraordinary forbearance—never transcended. It would require no prophetic spirit to predict, that, so long as you confined your military operations to chasing the Indian from your territory, the war would rage, and the citizens would continue to fall under the tomahawk and scalping-knife. This Government has ever exercised its rights with forbearance: in the love of peace, it has relinquished many. This nation has bent under the weight of insult, and seldom appealed to the exercise of her rights, in full latitude, until compelled to it by principles identified with the paramount duty of all Governments. How long were your citizens torn from their families, scourged by a British captain, and compelled, in some instances, to point the cannon against their countrymen? The bitter cup of humiliation was emptied to the dregs. In scorn, it was said this Government could not be kicked into a war. The nation rose in the majesty of its strength, and hurled destruction upon the foe! Experience at length satisfied the Administration that these vexatious and cruel incursions could only be terminated by pursuing the erratic Indian. At length the ghost of the departed sovereignty of Spain in Florida, no longer alarmed. It fled before the demands of Georgia and Alabama for protection; and the extent of the orders given to the troops was communicated to you by the President, in his Message of the 25th March, 1818. He told you that "Orders had been given to the General in command, not to enter Florida, unless it be in pursuit of the enemy, and, in that case, to respect the Spanish authority wherever it is maintained; and he will be instructed to withdraw his forces from this province, as soon as he shall have reduced that tribe to order, and secured our fellow-citizens in that quarter, by satisfactory arrangements against its unprovoked and savage hostilities in future." How did you proceed upon the receipt of this Message? It was the basis of legislative acts, legitimatizing what had been done; countenancing the doctrine the Message contained; and embracing its views, you directed a brigade of militia to be called into service; you increased the pay of the Georgia militia engaged in the Seminole war. He said he recollected the proposition was made by his friend from that State, (Mr. COBB.) He felt a repugnance to it, but his objections melted away under the fervid zeal and eloquence of that gentleman; and a large appropriation was made to meet the expenses of the war. Here is a shield broad enough and thick enough to protect the Executive from attack, the work of your own hands.

But, considering the subject unaccompanied with this *quasi* declaration of war and the auxiliary measures, the step was strictly justifiable. If Spain had been a neutral power, and the Indians belligerent, not inhabiting her territory and being within her sovereignty, but merely retreating, then the Americans would have had an indisputable right to pursue them by the usages of nations. We will find this doctrine in *Vattel*, 515. It is certain that on my enemy's being defeated, and too much weakened to escape me, even if my neighbor affords him a retreat, his conduct, so pernicious to my safety and interests, would be incompatible with neutrality. If, therefore, my enemy on a defeat retires into a neutral country, he is to cause the troops as soon as possible to continue their march, and not permit them to watch an opportunity to attack me, because otherwise he gives me a right to enter his territory in pursuit of my enemy—a misfortune that often attends nations unable to command respect. The enemy not only retreated into the Spanish territory, and watched an opportunity to attack our citizens, but were the inhabitants of the country, and kept the Spanish authorities in subjection. It was said by a member from New York, (Mr. STORRS,) that the line should not have been crossed, until application had been made to the Spanish Court. For months had your soil been polluted by the foot of savage invasion; for months had this land, sacred to liberty, to justice, and to humanity, been crimsoned by the blood of its inhabitants; yet there should have been a pause in our movements until a messenger had crossed the Atlantic to call the attention of Ferdinand to the condition of his subjects—to awaken him to a sense of duty, and to ask him to re-assume the sovereignty of the Floridas, which he had carelessly lost. Your messenger would have found him tambouring a petticoat for the Virgin, surrounded by lazy monks, dreaming of schemes to establish the Inquisition, under whose tortures hypocrisy flourishes, and religion expires.

The Indian is only vulnerable in his town. An Indian war can only be terminated by destroying his means of subsistence, and penetrating his fastnesses, where he flies for shelter, until, like the tiger, in the still darkness of the night, he can spring upon his prey. It was said, the present Secretary of War gave vigor to the operations; that he boldly ordered the commander of our forces to terminate the war. It was the patriotic vigor that meets the exigency. Let that distinguished statesman pursue the course he has commenced, and ere long the hand of gratitude will crown him with the proudest honors of the Republic.

The execution of Ambrister and Arbuthnot is said to be unconstitutional; but ingenious gentlemen have not condescended to point out the provision which is invaded, unless, as his colleague (Mr. COLSTON) had contended, the constitution had repealed the law of nations, making this a transaction *casus omissus*, and carrying back the right of punishment to the old ground of natural law, where authority sufficient would be found for the measure. On the contrary this people, when they assumed a stand amongst the powers of the earth, became entitled to the benefit of all the law of nations. The constitution only distributes the exercise of these rights amongst a variety of departments, defining what portion of sovereignty shall be exercised by the one and the other—all the sovereign power that attaches to an independent government in its foreign relations and intercourse existing in, and to be performed by one of these departments, or by the co-operation of all. This Government claims all the rights of war and peace permitted to be exercised by the law of nations. This law, and the practice and usage of all governments, vest the right of punishing incendiaries like those in the commanders of armies. Your constitution does not interdict the exercise of this power in this ordinary mode, nor is it confined, by that instrument, to any particular department, nor has it been the subject of legislation.

Mr. S. said, that, although this was ample vindication, he placed the justification of these executions upon different ground. He did not consider these men British subjects. The doctrine of perpetual allegiance—once a subject always a subject—was not to be found in his political creed. The right of expatriation was admitted by this Government—the tide of emigration flowed into this country upon that principle; and its preservation is the shield of a large portion of your population, who have sought refuge here from tyranny and persecution. The evidence of the exercise of this right is, residence or acceptance of office. When an effort was made in this House, by an able and zealous friend to the rights of man, to prescribe a mode for the exercise of this right, it was rejected, for the simple reason that the right then stood upon the surest basis. These men had become members of the Indian tribe—they had incorporated themselves with the savages. Ambrister commanded a detachment, and marched at the head of an army, composed of negroes and Indians, to meet the American troops. Arbuthnot was admitted into the council of the nation, as a chief; he was the minister of foreign relations of the Seminole tribes and their dependencies, St. Marks and Pensacola. Appointed and commissioned to his high office by special power of attorney, he corresponded, officially, with British Governors and Spanish commandants; he communicated with the British Minister near the American Government, until the interesting correspondence was interrupted by the weight of postage. Sir, he said, it would have been an interesting spectacle to have seen the arrival, in this circle of etiquette, of this representative of Hillishajo, Bowlegs, Nero, and the Spanish commandants; he would have been a little smoked with monarchy, and great commotion would have resulted from the difficulty of fixing his rank in the scale of fashion. These men having incorporated themselves with the Indians—having voluntarily stepped down from civilized society and Christian warfare, made common cause with the savages, and contributed to their indiscriminate massacre; they were subject to the same treatment that the usages of the country and the laws of war permitted to be inflicted upon the savage. Hillishajo was hung; his memory is not embalmed, nor his fame perpetuated, by a single plaintive strain. Yet Hillishajo was a king and a prophet; he had swept your frontier with a besom of desolation; no feeling of his heart protected the infant or the timid female; indiscriminate murder marked his operations. Ambrister and Arbuthnot, enlightened by the Christian dispensation, which breathes peace and good will towards man, whetted his appetite for blood; stimulated him, by false and deceptive promises, to tear the scalp from the infant's head, and plunge the tomahawk in the aged matron's breast, and drove him inevitably to the fate he deservedly met. They were apprehended in the fact, and condign punishment inflicted.

Mr. WALKER, of North Carolina. Mr. Chairman, it is with considerable difficulty I approach this subject, which has been discussed with so much interest and ability by those who have preceded me in this debate, as almost to preclude any further inquiry; like a body completely anatomized, leaves little room for the most skilful artist to improve upon the plan; much less one who does not profess to be very learned in the constitution or laws of nations, and has no pretensions to literary or legal acquirements. The ground which I shall attempt to take will be founded in plain facts and common sense. I do not calculate on giving any illustration on the subject in a legal point of view, as every point has been brought to the law and to the testimony, by gentlemen whose talents and abilities have proved them adequate to the task. But I shall briefly state the principles and reasons that shall govern my vote on this important and interesting question. Important, sir, as it will stamp a character on this

nation, that will last for ages, and may be a precedent for future legislators, when we who are about to give this vote will be sleeping in the dust; important, as it respects the feelings of the nation, as we are accountable to them who sent us here, and the people are competent judges of our political opinions, and we must return and submit to the tribunal of public opinion. But, sir, it is materially important, as it will take into view the character and conduct of one of our most illustrious citizens, and one of the greatest captains the world ever saw, whose achievements and military fame have not been surpassed by any who has gone before him. Sir, from the high consideration I have for the honor and dignity of my country, and the esteem and veneration I entertain for the character of that brave and meritorious officer, I approach this vote with a due solemnity.

Sir, the Seminole war, which has made such an earthquake in this House, and on which so much eloquence has been displayed, and against which the constitution, the laws of our own country, and the laws of nations, have all been arrayed, so inconsiderable in the beginning, has become so magnified as to end in this House. Sir, I have paid a due attention to the debates on both sides of this question, and with much satisfaction have heard it clearly proved that the war was authorized consistently with the constitution and laws of our country, and that it was promptly and correctly carried on with energy and decision, and terminated in the event to the honor and interest of the United States; and all the lucid explanations delivered in support of that war, have, to my mind, been like so many candles lighted to the sun. Truth may be embellished, but cannot be changed. The necessity and expediency of that expedition always appeared clear as the light, duly authorized by the President, the proper organ of Executive power; and in the prosecution of that war, I have seen nothing done but what ought to be done, and nothing else could be done to effect the purpose. The nature and effects of savage warfare have been ably depicted by gentlemen who preceded me; but, as truth may sometimes be twice told, I will proceed to exemplify some of its horrors, which I not only know by the hearing of the ear, but mine eye hath seen it. Savages do not war as civilized nations, by formal declaration. No, sir, they come as a thief in the night; when peace and safety cover our dwellings, then cometh their dreadful, secret, and horrible depredations, when least expected; the instruments of death are in their hands, destruction attends their footsteps, no kind messenger to give us the watchword, no intimation of their approach; the blow is struck before it is known, and darkness, the pavilion that covers their deep design, and ambush secures them from the eye of the traveller, where neither age nor sex is spared; the hoary head, the sprightly youth, the suckling infant, and the tender and trembling mother, all indiscriminately fall victims to their savage fury; and those who are so unfortunate as to come within their grasp, and are made prisoners, are often reserved for a death more horrible than death itself—for the burning stake or bloody hatchet, the savage yell sounding through the forests, and desolation and destruction on every side. Hear the words of a great man on the subject of savage warfare: "The darkness of midnight shall glitter with the blaze of your dwellings, and the war-whoop shall wake the sleep of the cradle." Such a war was commenced by the Seminoles on the frontiers of Georgia, unprovoked and unknown to us. When application was made by the Executive of that State for a defensive force to repel the enemy, did they then request the President to consult the constitution or the Sibyl books to inquire into his Executive powers, whether he could send an army to their relief? No such reserve in any of their messages; they must have an army, they must have a general; it was then constitutional, highly approved, and graciously received; but now, Mr. Chairman, when their battles are fought and victory gained, peace concluded, and order and tranquillity restored—oh, it is now unconstitutional, and their voice is against the hand that saved them. But reverse the subject; sometimes things appear most true and best proved by their opposite. Suppose the President had hesitated, and adopted the policy gentlemen so strongly urge on this floor, and told the people of Georgia that he doubted his Executive powers, and that the constitution did not authorize him to send an army over the Spanish line, and so passed by on the one side; and that General Jackson, at the head of his army, advanced to the Spanish line, had also hesitated, and said, hitherto I go, and no farther, and passed by on the other side; what good Samaritan would they have found to come that way, and heal the wounds of their bleeding country? I fear they would have found none. What would have been then, and what now, the situation of the people of Georgia? For aught we know, the blood of the defenceless inhabitants might be yet streaming, and the Seminoles encamped in battle array on the banks of the Oconey. But the President chose the better part, and acted as he ought to have done; sent our army under the command of a General whose character and abilities were adapted to the enterprise—ever active, ever fortunate—and whatsoever his hand found to do, did it with his might.

I have always entertained a high sense of the merit of military men who have given their aid to rescue their country from oppression, and to secure the rights and liberties of mankind; their reputation is dearly earned; they have to encounter the extremes of every climate, the inclemency of every season, and all the conflicts of a military life, and deaths and dangers await them at every post; while we, who are here, are gaining the plaudits of our country, on a political eminence, as legislators, with good accommodations, and faring sumptuously every

day; they would be cheered by a crumb from our tables while suffering and fighting the battles of our country. Sir, I am not among those who pay an unlimited devotion to any man's rank or character, abstractly, or because he is so; but it is my pride, and I ever feel it a grateful and pleasant duty to pay my tribute of respect to every faithful servant of his country, whether in the cabinet or the field, or in any condition of life. General Jackson to me is personally unknown, but I cannot be mistaken in giving my support to a man who has rendered such eminent services to his country; who has fought our battles, gained our victories, and restored peace and tranquillity to our Southern frontier. I trust, on this question, we will pay a due regard to public feeling, and do justice to him who has done so much for us, and declare to this nation, and to the world, that General Jackson well deserves the gratitude of his country.

Mr. RHEA, of Tennessee, addressed the House as follows:

The United States of America and Great Britain terminated the war of the Revolution by the definitive Treaty of Peace made at Paris. The nations and tribes of Indians, over whom British influence prevailed, were allies of Great Britain in that war, and perpetrated barbarous cruelties. Desolation, burning, and murder, attended their movements—their paths were stained with blood—the tomahawk and scalping-knife spared neither age nor sex—a price was paid for scalps, from the mangled heads of men, women, and children, and triumphed over by the enemies of the people contending for liberty.

The United States of America, in the year one thousand seven hundred and seventy-eight, made articles of agreement and confederation with the Delaware nation of Indians—that treaty provided for perpetual peace and friendship through all generations—the territorial rights of that nation were amply provided for. The Delawares were the first with whom the United States treated, and were pre-eminently honored; and it seems, by the sixth article of the treaty, that, in that year, it was contemplated to institute an Indian State, with the Delawares at its head, with a right to a representation in Congress. The wandering life and habits of the Indians frustrated that benevolent plan. The experience of Indian disposition manifests the impracticability of a confederacy of that nature. It appears by a separate article of the treaty made with the Wyandot, Delaware, Chippewa, and Ottawa nations, that the Delawares were not able to resist British influence—they fell off. Three chiefs, Kehlamond, Hengue Pashees, and Wycocalind, only, with their families, continued to hold the chain of friendship with the United States.

The war of the Revolution ended; the territorial limits of the United States were defined; the nations of Indians, allies of Great Britain in the war, were not protected or covered by the Treaty of Peace; they were left to the humanity and mercy of the United States. Hence it is inferred, that all right whatever to lands claimed by Indian nations, who were allies of Great Britain in time of the war, and residing within the limits of the United States, were void, and ceased to be.

The United States, in the year 1784, by treaty, gave peace and protection to the Senecas, Mohawks, Onondagas, and Cayugas. The Oneidas and Tuscaroras were secured in the possession of the lands they lived on, and the boundaries of the Six Nations were fixed.

The United States, by treaties made in the year 1785, gave peace and protection to the Wyandot, Delaware, Chippewa, and Ottawa nations of Indians, and to the Cherokee nation—and these nations acknowledged themselves under the protection of the United States of America, and of no other sovereign whatever. Lands were allotted to them, respectively, to live and hunt on.

The United States, in the year 1786, by treaties, gave peace and protection to the Choctaw, Chickasaw, and Shawanee nations of Indians, respectively, and they acknowledged themselves to be under the protection of the United States, and no other sovereign whatever. Lands were allotted to them, to live and hunt on.

The United States of America, in the year 1790, made a treaty with the Creek nation of Indians. The first article provides that there shall be perpetual peace and friendship between all the citizens of the United States of America, and all the individuals, towns, and tribes, of the upper, middle, and lower Creeks, and Seminoles, composing the Creek nation. By the second article, the kings, chiefs, and warriors, for themselves and all parts of the Creek nation within the limits of the United States, acknowledged themselves and all parts of the Creek nation, to be under the protection of the United States, and of no other sovereign whatever. A boundary line was designated, and the lands allotted were guaranteed to them to live and hunt on. The second article of the treaty manifests that the Creek nation had been hostile to the United States. Two other treaties were made with the Creek nation; one in 1802, the other in 1806, whereby ample provision was made for their comfort, and to promote their civilization. Great Britain, by the Treaty of Peace, acknowledged the United States to be free, sovereign, and independent; that he treated with them as such, and for himself, his heirs, and successors, relinquished all claims to the government, proprietary, and territorial rights of the same, and every part thereof. The United States of America, by that treaty, became the acknowledged sovereign of, and over, all the territories within the boundaries designated by that treaty, agreeably to the principles of the confederation. The nations and tribes of Indians, allies of Great Britain, and enemies to the United States, in the Revolutionary war, not covered and protected by the Treaty of Peace, no longer retained any right or claim to lands within the

limits of the United States; all their rights and claim to land therein became void, and ceased to be, the Delaware nation not excepted.

The United States, said Mr. R., proceeding on this principle, made, after the Treaty of Peace with Great Britain, treaties with the several nations and tribes of Indians within their territorial limits; and gave peace to, and received them into their protection, and these nations and tribes acknowledged themselves under the protection of the United States of America, and of no other sovereign whatever. The United States allotted lands to them to live and hunt on.

The treaty of Holston was made with the Cherokee nation of Indians, in the year 1791, and that nation again acknowledged themselves to be under the protection of the United States, and of no other sovereign whatever.

The Creek nation, soon after the treaty of 1790, began to manifest a disposition hostile to the people of the United States living on the south-western frontier. That disposition was known to have been excited by foreign emissaries inducing the Indians to believe that the United States had wrongfully taken land from them. In the year 1792, the Creeks began their ravages on the frontier, and murdered several persons. A large body of them, aided by a considerable reinforcement of Cherokees, crossed Tennessee river, marched to the Cumberland settlements, attacked Buchanan's fort there, and, being repulsed with great loss, returned, after having committed depredations and murders, conformably to their usual manner. The Indians continued the war on the frontier of the south-western territory, until another treaty was made with the Cherokees, at Philadelphia, in the year 1794. The articles of which were stipulated to be considered as permanent additions to the treaty of Holston.

In the year 1795, a treaty of amity, friendship, limits, and navigation, was made between the United States of America and Spain; and afterwards, in the year 1796, another treaty was made at Colerain, in Georgia, with the Creek nation, and by it the treaty of 1790 is declared to be obligatory on the contracting parties, except as provided for by the treaty of Colerain. So ended that war with the Creek Indians and Cherokees.

A variety of circumstances manifested that, in the time of the Revolutionary war, frequent communications had been, between the northern and southern nations of Indians; and that their hostilities, by certain excitements, against the people of the United States, operated to the same object, namely: the depression of the people of this nation. That, also, said Mr. R., appears to have operated in the time of the war I have been speaking of; during that war a powerful confederacy of Indian nations carried on a destructive war against the United States on the north-western frontier. The British Government retained the north-western posts, and erected and garrisoned another within the limits of the United States. The Indians carried on the war in their usual savage manner; murdering, scalping, and destroying. General Harmar was sent with a body of forces against them, but did not prevail. General St. Clair, with a larger body of troops, was ordered against them; he was defeated with great loss. General Wayne was ultimately sent against them with a more numerous army; and he defeated the Indians. The treaty of amity, commerce, and navigation, between the United States and Great Britain, was made in November, 1794, by which Great Britain stipulated to surrender the north-western posts. In August, 1795, a treaty of peace was made at Greenville, between the United States and the Wyandots, Delawares, Shawanees, Ottawas, Chippewas, Patawatimies, Miamis, Eel Rivers, Weas, Kickapoos, Piankeshaws, and Kaskaskias—and so ended that Indian war; but not until a treaty had been made with Great Britain. I take notice of these past events first, said Mr. R., that the connection of the Indian war operations of the several Indian nations, and the influence of foreign agency may be observed, that the exciting causes be considered, in order to illustrate the subject under consideration, and that the Indian character may be understood.

The northern and southern nations of Indians engaged in the wars on the northwest and south-west frontiers, which, said Mr. R., I have been speaking of, had, in and by the first treaties made with them, respectively, after the Revolutionary war, acknowledged themselves to be under the protection of the United States of America, and of no other sovereign whatever. In making and carrying on war against the people of the United States, they renounced and abandoned that protection; they violated the treaties they had made with the United States, and put themselves out of their protection; the forfeiture might have been taken against them; but humanity, the consideration of their ignorance of the obligations of social compact and morality, and compassion for their miserable condition, prevailed; and, in pursuance thereof, the several treaties alluded to were made with them, and various other treaties, previous to the year 1811.

The Indian—rude, wild, and savage—ignorant of the principles of morality, of the doctrines of Christianity, and of the knowledge of the true God—is prone to superstition, to fanaticism, and to a vain desire of knowing future events, not within the view of man. In the year 1807, an Indian chief of the Shawanee nation, who has been named the Prophet, excited by foreign corruption, is said to have began to propagate his delusions among the northern Indian nations; and, of them, to form a strong confederacy against the United States. The influence of that Indian chief increased in that and succeeding years. Large quantities of goods were delivered to the Indians by British agents; and British emissaries excited them to war, insinuating that they would now be aided by their great father in driving back the Americans, and recovering the lands the Americans had taken from them. The United States were paying large annual subsi-

dies to the Indian nations; but the influence of British corrupt agents, the distribution of goods, arms, and ammunition, and the declarations of the Indian fanatical prophets, prevailed against the peace of the Indians. In the year 1811, a confederacy of Indian nations was formed; and, in the month of November of that year, the battle of Tippecanoe was fought, in which the American army defeated the deluded, hostile Indians.

In the month of June, 1812, the Congress of the United States passed an act declaring that war be, and did exist, between the United Kingdoms of Great Britain and Ireland and the United States of America. The promulgation of that act excited more strenuous efforts of British agents and emissaries to instigate the Indians to continue the war.

In the month of August, 1811, the Shawanee chief, Tecumseh, brother to the fanatic prophet, passed down the Wabash River with a party of about six Shawanees, six Kickapoos, and six of some tribe far to the northwest, as they said, the name of which they refused to tell, on his way to the Creek nation. The object of his visit could not be mistaken—to excite the Creek and other southern nations of Indians to war against the United States, was his object. Indian fanatic prophets increased in the northern Indian nations. The Creek Indians had, soon after the visit of Tecumseh, their fanatic prophets also, inciting them to war, of whom Hillishajo, or Francis, appears to have been one. Strong suspicion is attached to six of the persons accompanying Tecumseh on his visit to the Creeks; they would not tell to what tribe they belonged. Who they were has not been perfectly ascertained. The effects of the visit of Tecumseh to the Creek nation soon became apparent. An infuriated fanaticism was propagated among them; they were taught to believe themselves invincible. The greatest part of them were hostile; they prepared for war, and soon after began their ravages on the frontier. They attacked Fort Mimms, took it, and massacred almost all the people who were in it. War with the Creek nation was inevitable.

The Executive of the United States had ordered fifteen hundred men from Georgia, and as many from Tennessee, to be called out in defence of the frontier. The fifteen hundred men from Tennessee were not raised previous to the meeting of the General Assembly of that State. That General Assembly convened at Nashville in September, 1813. The destruction at Fort Mimms and other ravages of the savages were known; and it was understood that a large force of them was preparing to attack the frontier settlements. The time was precious, the danger was imminent, and did not admit of delay. The southern frontier of Tennessee, including Madison county, is about four hundred miles long, without any fort or place of strength, and liable to the incursion of the savage. A partial success of the hostile Indians would have added to their force a large number of warriors from the neighboring nations of Indians. The General Assembly of Tennessee, sanctioned by the Constitution of the United States of America, immediately enacted a law to raise and complete, with the fifteen hundred men previously ordered, an effective force of five thousand men; and also a law to raise and appropriate $300,000, to pay and support the troops while in service. That army was raised with all possible despatch. General Jackson, who was Major General of militia in Tennessee, took the command. To prevent the ravages of the Indians on the frontiers, the troops poured out from Tennessee; and, expecting soon to meet the enemy and finish the war, they crossed Tennessee River, and commenced operations on the frontiers of the Creek nation. The war was carried on with various success, several battles were fought. The General with his intrepid troops approached the strong fortifications of the enemy at the Horse Shoe. He ordered an assault; the fortification was stormed; the battle raged hand to hand, within the fort; and ceased with the destruction of nearly all the Indian warriors in the fort. General Jackson afterwards marched, with part of his troops, to the Hickory Ground; and there, meeting with a large body of troops from Georgia, he left the country in their possession, and returned with his army to Tennessee. The proceedings of General Jackson with the army under his command, against the hostile Creeks, were approved, and the State of Tennessee was relieved, by the General Government, from payment of the expense. The hostile Creek Indians were beaten, but the war was not finished. In this war, the Cherokee Indians aided against the Creeks, and did good service. Soon after his return from the Creek nation, General Jackson was appointed a Brigadier General, with brevet of Major General; that was soon followed by being appointed a Major General in the armies of the United States. The Creek Indians wished for peace; General Jackson was appointed commissioner to treat with them; and, in the month of August, 1814, he concluded a treaty with the Creek nation. Hillishajo, or Francis, the fanatic prophet, and some more chiefs of that nation, did not attend the making of that treaty; they, with others of the hostile Creeks, retired towards Florida, from whence to carry on the war against the people of the United States.

The Seminoles, a part of the Creek nation, were party to the treaty of 1790; and David Francis, alias Meemagechee, appears to have signed it. The Seminoles had acknowledged themselves under the protection of the United States, and of no other sovereign whatever. Lands, in common with other tribes of the Creek nation, were allotted to them. Other treaties, as has been observed, were made with the Creek nation; one as late as November, 1805, and ratified in June following. Of the benefits stipulated for in these treaties, the Seminoles participated. In all disputes or wars between the United States and foreign powers, the Indian nations who had acknowledged themselves under the

protection of the United States, ought to have continued neutral. They suffered themselves to be made the willing instruments of war against the United States, by the persuasion of emissaries of foreign nations, who trafficked in blood, whose goods were poison, whose friendship was destruction. In a letter from Governor Mitchell to Mr. Monroe, of September, 1812, he informs that the Governor of Augustine has had sufficient influence with the Indians residing in Florida, called the Seminoles, to induce them to fall upon the defenceless settlers on the St. Johns and St. Marys. On the St. Johns they had killed and scalped eight or ten persons; and on the Georgia side of St. Marys, they had killed and scalped one and wounded two more. Colonel Smith, in a letter dated September 22, 1812, informs Governor Mitchell that, on the 12th of that month, the escort with the provision wagons, under command of Captain Williams, was attacked by a party of Indians and negroes, to the number of fifty or sixty, from St. Augustine. Captain Williams's command consisted of a non-commissioned officer and nineteen privates, besides drivers. The wagons were lost; both the officers and six privates wounded, Captain Williams mortally, the non-commissioned officer killed. Colonel Williams, in December, in that year, marched with a volunteer corps from Tennessee to aid in defending the frontiers of Georgia from the incursions of the Seminole Indians. About that time, the movement of the Creek Indians, incited to war by their fanatics, was extensive. They would have war, and war came upon them; they put themselves out of the protection of the United States, by making war against them; and, by so doing, all the hostile Creeks and Seminoles who refused to agree to the treaty of August, 1814, made themselves outlaws; Hillishajo, and Hemathlemico, chiefs of the Creek nation, being of that number.

In August, 1814, a British force took possession of Pensacola and the Fort of Barancas. A Colonel Nicholls commanded the land force, part of which was a corps of colonial marines, in which George Woodbine was a captain, and Robert C. Ambrister a lieutenant. On the 29th of August, in that year, and about twenty days after the date of the treaty made with the Creek nation at Fort Jackson, Colonel Nicholls, who, it is presumed, had a knowledge of that treaty, issued his proclamation from Pensacola, inviting persons of every description to join and aid him to abolish (as he said) American usurpation in the country, and to put the lawful owners in possession; stating that he was at the head of a large body of Indians, well armed, disciplined, and commanded by British officers. On the 31st of that month he addressed a letter to Mr. Lafitte, informing him that he had arrived in the Floridas for the purpose of annoying the only enemy Great Britain had in the world. He continued not long at Pensacola and Barancas. General Jackson, having, on the 9th of that month, concluded the treaty with the Creeks, and approached Pensacola with an American force, compelled the invading British to evacuate Pensacola, and to abandon the Barancas, after having blown up the fortifications. After that, General Jackson retired with the army under his command from Pensacola, and hastened to New Orleans to resist the British at that place. Colonel Nicholls, after having been driven from Pensacola and Barancas, moved to Appalachicola, and erected his fort for the reception of hostile Indians and negroes, from whence he might sally out, with his motley crew of black, white, and red combatants, and annoy the defenceless frontiers of the United States.

Colonel Nicholls retained his post at Appalachicola several months after the ratification of the Treaty of Ghent. His correspondence with Colonel Hawkins, commencing on the 28th of April, 1815, shows that he did not consider that the peace made between the United States and Great Britain had put an end to his operations at his fort, or to his negotiation with the Indians against the United States; that he enclosed a copy of part of the ninth article of the Treaty of Ghent, stating that the Indians had accepted and signed it, and requested Colonel Hawkins to understand their territories to be as they stood in 1811; that they had signed a treaty of offensive and defensive alliance with Great Britain, as also one of commerce and navigation; that he was desired by the Indian chiefs to say to Colonel Hawkins, that they do not find that his citizens were evacuating their lands, according to the 9th article of the Treaty of Peace, but that they were fresh provisioning the forts. By a letter from General Gaines, of the 22d May, 1815, it appears that Colonel Nicholls was then at Appalachicola, with about 900 Indians and 450 negroes, under arms. Hillishajo, or Francis, and other chiefs of the Creek nation, with others who did not attend at the Treaty of Fort Jackson, who continued hostile, are presumed to be of that party, and, with Colonel Nicholls, exciting to continue the war.

After having instigated the Indians to continue the war, by inducing them to believe that, by the ninth article of the Treaty of Ghent, they were entitled to repossess the territory, as in 1811; and having furnished them with a large quantity of arms and ammunition to carry on the war, Colonel Nicholls departed for Great Britain, taking with him Hillishajo, the fanatic, and an address from hostile chiefs to the King of England. It appears by a letter of Colonel Hawkins, of the 28th of May, 1815, and by the letters of General Gaines, of the month of December, 1817, and of January, 1818, that hostilities were continued by the Indians; in the course of which, it appears that Edward Daniels, taken prisoner, was tarred and burnt alive; that Mrs. Garret and her two children were murdered—she and the eldest scalped; Lieutenant Scott and his party, in a boat, fired on—six men of thirty, and one woman of seven, escaped—four little children taken by the legs

and their brains dashed out against the boat, with other murders, and ravages, and barbarities. The time had arrived when it was absolutely necessary for the United States to exert their power to put an end to the war. The *salus populi*, or, in other words, the safety of the people, the supreme, irrevocable law of all nations, demanded that this savage war, carried on by Indians out of the protection of the United States, and negroes, and continued to be excited by foreign emissaries, who had identified themselves with the savages, be terminated.

On the 26th of December, 1817, the Department of War addressed a letter to Major General Andrew Jackson, then at Nashville, Tennessee, ordering him to repair, with as little delay as practicable, to Fort Scott, and assume the immediate command of the forces in that quarter of the southern division; advising him of the strength of the forces there—that General Gaines estimated the strength of the Indians at 2,700; and to call on the Executives of the adjacent States, if, in his opinion, the troops of the United States were too few in number to beat the enemy; and to adopt the necessary measures to terminate a conflict which it has ever been the desire of the President, from considerations of humanity, to avoid, but which is now made necessary by their settled hostilities. On the 16th of January, 1818, the Secretary of War wrote to General Gaines, informing him that the honor of the United States requires that the war with the Seminoles should be terminated speedily, and with exemplary punishment for hostilities so unprovoked; and that orders were issued, directing the war to be carried on within the limits of Florida, should it be necessary to its speedy and effectual termination. These orders, I presume, have been received. That, as soon as it was known that he had repaired to Amelia Island, in obedience to orders, and it being uncertain how long he might be detained there, the state of things at Fort Scott made it necessary to order General Jackson to take command there. From his known promptitude, it is presumable his arrival may be soon expected. A letter from the Secretary at War, of the 29th January, 1818, to General Jackson, acknowledges the receipt of letters from him of the 12th and 13th of that month; and that the measures he had taken to bring an efficient force into the field were approbated; and expressing a confident hope that a speedy and successful termination of the Indian war will follow his exertions.

On the 20th of January, 1818, General Jackson wrote to the Secretary of War further information respecting the measures by him adopted to carry on the war, and that he would leave Nashville on the 22d of that month for Fort Scott, via Fort Hawkins. On the 6th of February, 1818, the Secretary of War wrote to General Jackson, (Fort Scott, Georgia,) acknowledging the receipt of his letter of the 20th ultimo, and acquainting him of the entire approbation of the President of all the measures he had adopted to terminate the war; that the honor of our army, as well as the interest of the country, requires that it should be terminated as soon as practicable. It appears that General Jackson was at Fort Hawkins on the 10th of February, 1818; at Hartford, in Georgia, on the 14th; at Fort Early on the 26th; and on the 25th of March, 1818, at Fort Gadsden, east bank of Appalachicola, where formerly Negro Fort stood. Having reached Fort Scott on the 9th, with the brigade of Georgia militia, 900 bayonets strong, and some friendly Creeks, when, on the morning of the 10th, he assumed the command—ordered the live stock to be slaughtered, and issued to the troops, with one quart of corn to each man, and the line of march to be taken up at twelve, meridian. Near St. Marks, on the 8th April, 1818, the General writes to the Secretary of War that he had defeated a negro and Indian force—pursued them through the Mickasukian towns; that the towns were consumed, and the greatest abundance of corn, cattle, &c., brought in; that Captain McKever had secured Francis, or Hillishajo, the great prophet, and Hemathlemico, an old Red Stick chief, and that Arbuthnot, a Scotchman, and suspected as an instigator of the war, was found in St. Marks; that there were found in the council-house of Kenhagu's town, the King of the Mickasukians, more than fifty fresh scalps, and in the centre of the square the old Red Stick's standard (a red pole) was erected, crowned with scalps, recognized, by the hair, as torn from the heads of the unfortunate companions of Scott; that Indians and negroes combined had demanded the surrender of St. Marks; that the Spanish garrison was too weak to defend it; that he had occupied it with an American garrison, and the commandant and garrison furnished with transportation to Pensacola. On the 9th of April, from camp sixteen miles from St. Marks, on march to Suwanee, the General wrote to the Secretary of War, "There is little room to doubt but what one of the chiefs found slain on the field in advance of the Mickasukian villages, was Kenhajee. Francis, or Hillishajo, and Hemathlemico, the prime instigators of this war, have been hung. The latter commanded the party who so inhumanly sacrificed Scott and his companions."

General Jackson was authorized by the supreme law of nature and nations, the law of self-defence, corresponding with the great national maxim, namely, the safety of the people is the supreme law, to enter the Spanish territory of Florida in pursuit of, and to destroy, hostile, murdering savages, not bound by any obligation, who were without the practice of any moral principle reciprocally obligatory on nations.

FRIDAY, January 29.

Seminole War.

The House resumed, in Committee of the

Whole, (Mr. BASSETT in the chair,) the consideration of the report of the Military Committee, on the transactions of the Seminole war.

Mr. HOPKINSON, of Pennsylvania, addressed the House as follows:

Mr. Chairman, if, after the discussion this subject has undergone, I were to promise the committee to present it with entire novelty, I should promise that which it is not in my power to perform, and which would betray a presumption, of which, I trust, I am incapable. I have the hope, however, that I may be able to offer some principles in relation to it which have not yet been presented, and are entitled to some influence on the decision of the committee, and to make some new applications of principles already established.

The matters in controversy seem to me to obtain infinite importance, from the connection they have with the character of our country. We stand in a most peculiar and responsible situation in this respect. The nations of Europe, from their contiguity, may be said to form a family or an association of nations, controlled by and accountable to each other. They have alliances which all respect, ties which all must feel, balances and checks which all are interested to preserve, and rules of conduct in their mutual intercourse which all are made to obey. The American people, removed far from the rest of the civilized world, and placed beyond the control of the policy or force of Europe, have none of those means to keep them to the path of justice. They acknowledge no guide authorized to direct them but their own consciences, and feel no responsibility but to their God. This, sir, is a trying and a tempting situation, placing us on the highest ground of virtue, if we do not abuse it; but exposing us to infinite danger from the suggestions of pride, interest, and self-love. But, sir, let us not forget that we belong to the family of civilized nations, and be most forward to prove our devotion to those rules of conduct which the experience and wisdom of ages have established, as necessary for the peace and usefulness of all. Let us cherish those laws which increase the blessings of peace and mitigate the calamities of war.

The dangers which our country may apprehend from the encouragement of a military spirit in our people, have been eloquently portrayed on this occasion. It is undoubtedly true that a strong disposition of this sort has been manifested, and was rapidly rising, in the people of the United States; and a greater evil could hardly befall us than the consummation of its ascendency. There is something so infatuating in the pomp and triumphs of war, that a young and brave people who have known but little of its destructive miseries may require to be guarded against falling into the snare, and led to direct their energies to other and better objects. It is worthy of remark that, in the various ways in which the genius and powers of men display themselves, the military course is the only one eminently dangerous to his species. Genius in every other department, however dazzling and powerful, is never hurtful—is generally a blessing to the world. The stupendous genius of Newton elevated the dignity of man, and brought him nearer to his God; it gave him a path to walk in the firmament, and knowledge to hold converse with the stars. The erratic comet cannot elude his vigilance, nor the powerful sun disappoint his calculations. Yet, this genius, so mighty in the production of good, was harmless of the evil as a child. It never inflicted injury or pain on any thing that lives or feels. Shakspeare prepared an inexhaustible feast of instruction and delight for his own age and the ages to come; but he brought no tears into the world but those of fictitious woe, which the other end of his wand was always ready to cure. It is military genius alone that must be nourished with blood, and can find employment only in inflicting misery and death upon man.

The character and services of General Jackson have called forth eloquent eulogiums from various parts of the House. I have no disposition to depreciate them, although I think some of the praise bestowed upon them has been somewhat extravagant. I cannot think him the greatest commander this country has produced; much less is he the greatest general of the age; an age so productive of military wonders. He is unquestionably a man of undaunted courage, of indefatigable perseverance, of striking decision and celerity, and of great resources. If his private virtues, of which I know nothing, are equal to his public services, he is, assuredly, a man worthy of all estimation. These things will not influence my opinion or my vote, in the discussion and decision of questions of national law and public importance, which have no other connection with the character or services of General Jackson, than that they have arisen out of transactions in which he has been engaged.

We have seen, in this debate, a very laborious examination of books, for principles applicable to the questions in discussion; and authorities have been quoted, without end, on the several points. In truth, however, this is not the difficulty of the case; the principles of the laws of nations, which have relation to it, are very clear and unquestionable; and the inquiry should be into the facts and circumstances of this campaign. These being distinctly ascertained, the decision of the law upon them will be found at once. Indeed, it is the excellence of that system which is called the laws of nations, that there is little in it that is technical or arbitrary; the rule is, generally, that which the sound understanding and common sense of every man would suggest to him, if he had never read a line on the subject. My object will be to draw the attention of the committee to the prominent points of inquiry; to fix with precision the facts in relation to each, and show the principles of national law which ought to govern us in de-

ciding upon them. General Jackson has been arraigned; first, for crossing the line separating the United States from Florida; second, for taking the fortress of St. Marks from the Spanish authorities; third, for taking Pensacola and Barancas; fourth, for the execution of Ambrister and Arbuthnot. I beg leave to premise that, in discussing a transaction in which so many distinct questions arise, it will necessarily happen that different gentlemen of the committee will agree upon some, and disagree upon others; and even when they come to the same result of approbation or disapprobation, it may be for reasons wholly different. This renders a particular explanation of the ground of opinion more necessary than in ordinary cases. In crossing the Florida line and entering upon the Spanish territory, General Jackson certainly violated the neutral and national rights of Spain, unless he can show it was done for reasons, and under circumstances, which, by the agreement of nations, or, in other words, by the laws of nations, justify it, and remove its offensive character. Several grounds of defence have been taken for this act, both by General Jackson and on this floor. And here I may remark, in relation to this part of the case, as well as some of the others, that it is unfortunate for a man, when he has done that which is really right and defensible, to stumble upon a bad reason for it. His reason will be successfully attacked, and he will appear to stand condemned, when, in truth, his injudicious defence only has been overthrown. So it has happened to the General. It has been said for him, that he was justified in crossing the Spanish line to attack the Indians, because Spain had, by her treaty, stipulated that she would restrain the Indians within her territory from hostilities against the United States; and that, not having done this, we had a right to pass into the territory to do that for her and ourselves which she was bound, but had failed to do. It is obvious, on the least reflection, that this defence can avail nothing. If Spain had failed to perform her treaties with the United States, it was a matter to be adjusted by the two Governments, and not by a Commander-in-chief, at the head of his army. Spain might give reasons for the failure satisfactory to this Government, and had a right to an opportunity to do so. But the conclusive view of this point is this: If the territory of Spain was violated or attacked, to compel her to perform her treaty stipulation, or to punish her for not doing so, or because she had not done so, the act connected with the object was undoubtedly an act of war; it placed us in a state of war, and changed our relations with Spain.

The United States are at war with certain tribes of Indians inhabiting the Spanish territory. I do not inquire, as some gentlemen have done, into the origin of this war, or decide who was the immediate aggressor. The commanding General, whose conduct we are now investigating, has nothing to do with this question. It is his duty to fight the battles of his country, and carry on the war according to the laws of his country. Those who send him into the field must answer for the war. I may say, however, that I presume the origin of this war is the same with all our Indian wars. It lies deep beyond the power of eradication, in the mighty wrongs we have heaped upon the miserable nations of these lands. I cannot refuse them my heartfelt sympathy. Reflect upon what they were, and look at them as they are. Great nations dwindled down into wandering tribes, and powerful kings degraded to beggarly chiefs. Once the sole possessors of immeasurable wilds, it could not have entered into their imagination that there was a force on earth to disturb their possessions and overthrow their power. It entered not into their imagination, that from beyond that great water, which to them was an impassable limit, there would come a race of beings to despoil them of their inheritance and sweep them from the earth. Three hundred years have rolled into the bosom of eternity since the white man put his foot on these silent shores; and every day, every hour, and every moment, has been marked with some act of cruelty and oppression. Imposing on the credulity or the ignorance of the aborigines, and overawing their fears by the use of instruments of death of inconceivable terror. The strangers gradually established themselves, increasing the work of destruction with the increase of their strength. The tide of civilization, for so we call it, fed from its inexhaustible sources in Europe, as well as by its own means of augmentation, swells rapidly and presses on the savage. He retreats from forest to forest, from mountain to mountain, hoping, at every remove, he has left enough for his invaders, and may enjoy in peace his new abode. But in vain; it is only in the grave, the last retreat of man, that he will find repose. He recedes before the swelling waters; the cry of his complaint becomes more distant and feeble, and soon will be heard no more. I hear, sir, of beneficent plans for civilizing the Indians, and securing their possessions to them. The great men who make these efforts will have the approbation of God and their own conscience; but this will be all their success. I consider the fate of the Indian as inevitably fixed. He must perish. The decree of extermination has long since gone forth; and the execution of it is in rapid progress. Avarice, sir, has counted their acres, and power their force; and avarice and power march on together to their destruction. You talk of the scalping-knife; what is it to the liquid poison you pour down the throats of these wretched beings? You declaim against the murderous tomahawk; what is it, in comparison with your arms, your discipline, your numbers? The contest is in vain; and equally vain are the efforts of a handful of benevolent men against such a combination of force, stimulated by avarice and the temptations of wealth. When, in the documents on your table, I see that, in this tri-

umphant march of General Jackson, he meets, from time to time, (the only enemy he saw,) groups of old men and women, and children, gathering on the edge of a morass, their villages destroyed, their corn and provisions carried off, houseless in the depth of winter, looking for death alternately to famine and the sword, my heart sickens at a scene so charged with wretchedness. To rouse us from a sympathy so deep, so irresistible, we are told of the scalping-knife and the tomahawk; of our slaughtered women and children. We speak of these things as if women and children were unknown to the Indians—as if they have no such beings amongst them; no such near and dear relations; as if they belong only to us. It is not so. The poor Indian mother, crouching in her miserable wigwam, or resting under the broad canopy of heaven, presses her naked infant to her bosom with as true and fond emotion as the fairest in our land; and her heart is torn with as keen anguish if it perish in her sight.

In the fall of 1817, hostilities had broken out between the United States and the Seminole Indians, residing in Florida, and assumed appearances of danger and ferocity, requiring immediate and effectual suppression. On the 30th of November of that year, a boat, commanded by Lieutenant Scott, containing forty men, some women, and I believe some children, when ascending the Appalachicola River, was fired upon by a party of ambuscaded Indians, and the whole party killed, wounded, or taken prisoners. Previous to this occurrence, other murders and robberies had been perpetrated. It is said by General Gaines, in one of his talks, that the murderers and robbers had been demanded of the Indians, and refused; and that a council had been held by them at Mickasuky, at which war with the United States was determined upon. On the 15th December, 1817, our transports, passing up the river to reach our forts, were attacked from both shores, and placed in imminent danger. On the 9th of January, 1818, bodies of Indians, in the whole from eight to twelve hundred, were collecting on the Appalachicola, for the purpose of cutting off our supplies. From these facts it is obvious that war existed with as much formality and more activity than is usual with Indian hostilities. Such was the state of things in December, 1817, and the beginning of '18. In order to show that our Government was truly desirous to respect, even to an imaginary line, the sovereignty and neutrality of Spain, and ceased to do so only when circumstances made it necessary, and of course justifiable, it may be proper to look to the orders issued by the War Department on the 30th of October, 1817. In a letter of that date to General Gaines, he is told that the President approves of the march of the troops from Fort Montgomery to Fort Scott; that he flatters himself the appearance of this force will restrain the Indians, and induce them to make reparation for the murders they had committed. Should they, however, refuse to make reparation, "it is the wish of the President," says the Secretary, "that you should not, on that account, pass the line and make an attack upon them within the limits of Florida, until you shall have received further instructions from this department." We see in these orders a scrupulous attention to the neutral rights of Spain, and a very discriminating observance of the laws of nations. The two objects to be attained, were the restraint of the hostilities and depredations of the Indians, and to induce them to make reparation for those committed. For the attainment of them the President relies on the appearance of the force of our troops; but, should he be disappointed in this hope, he directs that the line shall not be passed, because reparation is refused, without further orders from the department. Now, whether we might pass the line for the purpose of restraining hostilities, would depend upon the nature and necessity of the case; but it is most clear that we have no such right merely to obtain reparation for past injuries, or to chastise the enemy for refusing it. The line is, therefore, accurately drawn by the President, according to the rules of national law. He forbids the passage peremptorily for a cause not justified by that law; and, as to the other object, directs that he shall be consulted before so important a step is taken. On the 26th December, when the order issued to General Jackson, to take command of the army, our situation was no longer so secure as in October preceding. The enemy had greatly increased in number; they had taken positions fatal to our garrisons, by cutting off all supplies from them; they had destroyed a considerable party of men going to those forts; they had attacked our transports, and manifested a determination to press the war with all their power and all their cruelty. The change of circumstances required a corresponding change in the measures of defence. On the 9th of December, a letter is addressed from the Executive to General Gaines, for his government. Fowltown had now been attacked and destroyed by General Gaines. The President again expresses the hope that this correction will induce the Indians to abstain from further depredations, and sue for peace. He refers the General to the letters of 30th October and 2d December, as manifesting his views, and directs that he should conform to them. At the same time he says, "Should the Indians assemble in force on the Spanish side of the line, and persevere in committing hostilities within the limits of the United States, you will, in that event, exercise a sound discretion as to the propriety of crossing the line, for the purpose of attacking them and breaking up their towns." This order, if carefully attended to, will evince the same desire in our Executive, not to tread on Spanish ground, but under circumstances justified by law. It is not to be done because the Indians assemble in force on the Spanish side, unless, in addition to this, they persevere in committing hostilities within the limits of the United States. That

is, if the Spanish side of the line is used as a position from which they make their attacks, and a refuge in which they shelter themselves from our attacks, from pursuit and defeat, then you, exercising a sound discretion, may pass the line. Under such circumstances, it, in fact, becomes a necessary measure of preservation, and may, indeed, be considered rather as a defensive than an offensive operation. So far it is clear, to my understanding, that all the orders issued from the War Department are strictly warranted by national law, and exhibit a proper and scrupulous regard for the rights of Spain. I find, however, in a letter to General Gaines, of the 16th December, that which, in my opinion, cannot be thus justified; and I am at a loss to discover why the department abandoned the sure ground on which it stood for that which seems to me to be absolutely indefensible. In this letter the General is instructed, "Should the Seminole Indians still refuse to make reparation for their outrages and depredations on the citizens of the United States, it is the wish of the President that you consider yourself at liberty to march across the Florida line, and to attack them within its limits, should it be found necessary, unless they should shelter themselves under a Spanish fort. In the last event you will immediately notify this department." I have already shown, and it is unquestionable, that the necessity which justifies the violent invasion of a neutral country, must be to prevent, to avoid, to be relieved from, an injury or danger of high moment, and not to revenge a wrong, however atrocious, or obtain redress for depredations, however destructive. This distinction, so obvious and so just, has been carefully marked by the President in all his previous orders. Why it was disregarded in this letter I cannot say. On or about the 11th of March, 1818, General Jackson crossed the river, passed down on the east side, and arrived on the 16th at Fort Gadsden, which is within the Spanish line of Florida. Let us then shortly sum up the circumstances by which he must defend this measure, and compare them with the reasons Spain may justly urge against it; and, by a fair comparison between them, we shall be able to decide whether, by the law of nations, we stand justified or condemned for this intrusion upon neutral territory. We defend on these uncontradicted facts, that our enemy, in very considerable force, had assembled on or near the line separating the two countries, part of which line was a navigable river, the free passage of which was essential to our safety, as, without it, neither supplies, nor provisions, nor munitions of war, nor reinforcements of men, could be transported to our garrisons within our own territory, beset by the Indians, and in danger of falling into their hands, if deprived of this assistance. We defend on the obvious facility with which the enemy might make his destructive incursions into our country, and the impossibility of restraining him, if he is to find a shelter from pursuit and punishment the moment he repasses the line. We defend, in the third place, on the interminable nature of a war thus carried on with such an enemy; the enormous expense to the United States in this protracted hostility; the daily loss of valuable lives by disease and the sword; and the infinite loss and inconvenience of keeping our militia in the field, from their homes and business, when the means of terminating the conflict were so directly in their view and so entirely in their power. Such is the necessity under which we claim the right to enter the Spanish territory, without thereby changing our pacific relations with that power. What can Spain oppose to this to warrant her in refusing this passage to our troops, or in complaining of it as a hostile invasion of her rights? Positively nothing. No injury, no inconvenience did result, or could have resulted, to her from the act. Look at the situation of the country we entered; it was not a populous city, whose peace might be endangered and disturbed by the presence of an army; it was not through flourishing villages and cultivated farms we passed, where the property of the inhabitants might be pillaged or destroyed by the disorders of a large military force; but a mere waste and wilderness, on which the foot of civilized man had scarcely trod, in which the interest of the Spanish monarchy is but nominal, and of the existence of which the greater part of the Spanish people are utterly ignorant. Above all, and which is perhaps the first consideration in these cases, the permission of this passage, nor the taking of it, would not expose Spain to any danger from our enemy, or expose her to the danger of being brought into the war on account of it. I leave the crossing of the Spanish line on this justification, being well satisfied it is entirely consistent with the most rigid observance of neutral rights, as recognized and guarded by the laws of nations. I agree that permission should have been asked, if circumstances would have allowed; but the same necessity which justifies the measure, in this instance justifies the adoption of it without such request.

The occupation of St. Marks by the American troops followed the entrance into Florida, and is the next proceeding to be considered. It is admitted by our Government that stronger reasons must be found for taking possession of this fortress than for the mere entrance upon Spanish territory; that is, the necessity must be more urgent and powerful; still, however, it is but a stronger case under the same principle. The seizure of a post or fortress belonging to a neutral power is so high and hazardous an interference with the rights of property as well as sovereignty, that it calls for a corresponding justification. This is found in what Vattel calls *extreme necessity;* it must be indispensable for preservation from immediate destruction; this again is but the dictate of the common sense of mankind. The right of an individual in his house, is as perfect and inviolable as that of a nation in its forts; a man's house is emphati-

cally called his castle, and as such protected by the law. But assuredly it would be no illegal violation of this sanctuary, if, pursued by an assassin, I should take refuge in my neighbor's dwelling; and forcibly too, if, under such circumstances, he would refuse or prevent me. The necessity here required must be immediate and extreme. It is not enough that the position taken will be a convenient means of annoyance to the enemy; a prevention of future danger; or an effective instrument for offensive or defensive operations in the war. No prospective advantage or danger will satisfy the law. Self-preservation; a deliverance from immediate, direct, and extreme peril, must be the end to be obtained by means so extreme. This is the principle; how does it apply to the occupation of St. Marks? Before I examine the facts in relation to this transaction, I beg leave to dispose of a justification set up for General Jackson, which I hold to be altogether untenable. It is said that Spain had by her treaty stipulated to restrain the Indians within her territory from hostile incursions into the United States; and that, not having done this, whether from inability or design, the right devolves upon us to enter the Spanish territory and do that for ourselves which she was bound, but has failed to do for us; and to take her forts in execution of this design. To this, I answer briefly, that, whatever cause of complaint this omission may have given to the United States against Spain; and whatever cause of war it might have afforded, if the complaint was not attended to and a satisfactory explanation given, yet it can give no authority to a military commander to commit an act of hostility, and involve his country in a war without its concurrence. It is for a higher and a safer power in our Government to judge when treaties have been broken, and what measures of redress should be resorted to against the delinquent. To invade the country of another, because a treaty has not been observed, is to punish for the delinquency; and, among nations, punishment can be inflicted only by war. Such an attempt cannot be made consistent with neutral relations; and we must always keep in mind, that, whatever the General has done, which is not consistent with these relations, which he had no right to change, he has done without authority. I may, however, use this failure on their part in support of the plea of necessity. It may be considered, in a degree, as both the cause and the evidence of the necessity. It is the cause, inasmuch as if Spain had performed her treaty stipulation and restrained her Indians, we should have no desire or necessity of entering her territory to prevent their hostile attacks upon us. It is the evidence, inasmuch as if the Indian force was really so formidable as to overpower the force of Spain, so that she was unable to restrain it on performance of her stipulation, it is not for her to say that the danger to us from this force was so inconsiderable and trifling as not to justify any strong measures on our part to guard against it. I come now to turn your attention to the facts and allegations relied upon for the capture of St. Marks. In General Jackson's letter of the 8th April, 1818, he tells us he left Fort Gadsden on the 26th March; that on the 1st April he was joined by McIntosh; and on the same day discovered a small party of Indians, which he dispersed; he continued the pursuit of them through the Mickasukey village, where he burnt three hundred houses. He then says, "as I had reason to believe a portion of the hostile Indians had fled to St. Marks, I directed my march to that fortress." He afterwards found the Indians and negroes had demanded the surrender of that fort; and that the Spanish garrison was too weak to defend it; and adds, that there were circumstances reported, producing a strong conviction on his mind, that, if not instigated by the Spanish authority, the Indians had received the means of carrying on the war from that quarter; and that St. Marks was necessary as a depot to insure success to his operations. These considerations determined General Jackson to occupy the fort. We here see several reasons urged in justification of this measure, some of which are good and some bad. While, therefore, I admit the justification, I desire to state the ground on which I rest it, lest I might be supposed to adopt all the reasons given for it. In this case the principle on which we approve or disapprove is every thing; as it is the principle, assumed and sanctioned by the House, which will govern future cases.

Three grounds are taken by the General: 1st, that the Spanish authorities in this quarter had instigated and supplied the enemy. If this fact were made out even stronger than it is by the evidence, I should not hold it to be a justification for the measure taken by the army, and, for the reason so often mentioned, that a capture on account would be a hostile capture; an act of war against Spain; would be inconsistent with our neutral relations with that power. It was, doubtless, a just cause of the most serious and determined complaint by our Government against Spain; it would be a just cause of war if Spain refused all reasonable satisfaction for the outrage: but both the cause and the expediency of such a war was to be decided, not by a military commander of our army, but by the Representatives of the people, with whom alone this high and vital power is intrusted. Still less, if possible, is the General justified by the second consideration suggested by him in his defence; that St. Marks was a necessary depot to insure success in his operations against our enemy. I will not abuse the patience of the committee by showing them that by no known law of nations, by no principle of common justice or common sense, can I take forcible possession of the property of another; can I violate his most sacred and essential rights, merely for my convenience, or to insure success in a contest to which he is not a party, and in which he has no concern. Such a doctrine is monstrous, and subversive

of the very foundations of public and private rights. What, then, remains for his justification? It is this—that a surrender of this fortress had been demanded by our enemy; that the neutral power was confessedly too weak to resist the demand or prevent the execution of the menace with which it was accompanied, of taking forcible possession if refused. For the proof of this fact, I look not to dubious circumstances, or witnesses of doubtful credit. We have it in the unequivocal declarations of the Governor of Pensacola and the commandant of St. Marks. We have these declarations proved, not only by unexceptionable witnesses, but under the hand of the commandant in his letter of the 7th of April. When these officers of the Spanish authority were charged with giving aid and countenance and protection to our enemy, in violation both of the general and the treaty duties of Spain, they defend or excuse themselves by displaying the force and ferocity of the Indians; by their menaces to take possession of the fort, and the inability to prevent it. If these assertions are to make the apology, they must be taken to be true, and, if true, they may be used by both parties, they may serve to justify such proceedings on our part as are fairly justified by them. This, then, being the case, what is the principle of national law that should govern it? I hold it to be entirely clear, that, when a fort, or any other means of warfare, will, with reasonable certainty, fall into the hands of one of the belligerents, and be by him used against the other, the party thus endangered may prevent the evil, on the rights of self-defence, by taking even forcibly, the instrument from the neutral; and that this is, in point of law, no hostile attack upon the neutral, nor right to be considered by him as an act of war, or a breach of his neutral relation. If arms, artillery, munitions of war, belonging to a neutral, were about to be taken by our enemy, can anybody doubt we might prevent this evil (if the neutral could not) by seizing them ourselves; making afterwards proper satisfaction to the neutral. I know, sir, that I here come directly upon a transaction which made much clamor in the world, particularly in this part of it, when it occurred—I mean the seizure of the Danish fleet, lying at Copenhagen, by the British. Taking the state of the fact to be as I have represented, I cannot doubt of the justification of the act. It is the common sense of mankind. Let me put a familiar case. Two men are engaged in one of these avenues in mutual strife; it is the contest of death. One of them perceives a stranger passing by who has no concern whatever in the quarrel; who is a neutral. But, this stranger has in his hand a drawn sword, which the combatant certainly knows will be taken and used against him by his antagonist, unless he prevents it by seizing the sword himself. He knows the neutral cannot prevent it, if he will. Will any man say, that, in this situation, he would not be justified in disregarding, for a moment, and in a point comparatively insignificant, the rights of the stranger, and taking from him the weapon which he cannot retain, and which in the hands of his adversary might be fatal to him? I agree, sir, that the belligerent using this violence takes a high responsibility upon himself, and is bound to make out his justification in the manner I have stated, with great certainty and by unequivocal evidence. On what principle but this can our Government justify itself for taking and still holding Amelia Island? It had fallen into the possession, not, indeed, of a regular force, and civilized enemy, but of a gang of brigands, pirates, and fugitives from justice. From its local situation our country was exceedingly exposed to the lawless depredations of these robbers. Spain, the rightful owner of the soil, was unable to break up the nest and expel the murderers from it, or prevent the injuries which they were able to inflict upon us by the use of the Spanish territory. Assuredly, then, the most obvious principles of self-defence authorized us to deprive the enemy of this means of annoying us; to take from them, not from Spain, a position of which she has been unjustly deprived, and which was so dangerous to us. It was no violation of the neutral rights of Spain; there was nothing in it of which she could reasonably complain. The occupation of St. Marks by General Jackson stands on the same principles; the admission and declarations of the Spanish authorities commanding in the fort. One part of this transaction I confess, is not sufficiently explained. It appears that the commandant and garrison were transported to Pensacola; but it does not clearly appear whether this was done by the orders of the General, or in compliance with their own wishes. It needs not a word to satisfy the committee, that, when a belligerent does find himself under a necessity to appropriate to himself the rights and property of another, he must do it with all possible respect to those rights, and with as little inconvenience and injury as practicable to the neutral. He may not, therefore, in a case like the present, expel the neutral from his possession; he should hold out a joint occupation of the place, and hold it as inoffensively as the nature of his situation will allow. Upon this point, I do not find sufficient light in the testimony to justify or condemn the General. I shall trouble the committee no longer with the seizure of St. Marks, having explained the grounds on which alone it appears to me it can be defended consistently with our neutral relations with Spain.

I propose next to consider the case of Pensacola. The capture of this place, with the fort of Barancas, must be tried and tested by the principles I have already submitted to the committee. It must be defended either by showing it was necessary to preserve our army from some immediate, unjust, and extreme peril, or that there was such reasonable certainty as existed in the case of St. Marks, that, if not occupied by our troops, it would fall into the hands

of our enemy, and by them be used as a means of annoyance against us. This brings us to a question of fact to be decided by the evidence. On the 7th of April General Jackson took possession of St. Marks. On the 20th of April he writes that the destruction of Bowlegstown, with the possession of St. Marks, will end the Indian war for the present; and, should it be renewed, the position taken will enable a small party to put it down. He states he is informed a few Red Sticks at Pensacola point were fed and supplied by the Governor of Pensacola; that he will reconnoitre there, and then return home for his health. On the 26th of April, he writes that he will proceed directly to Nashville. "My presence in this country can be no longer necessary." He expressly declares, that the Indians are scattered; cut off; and that "they no longer have the power, if they had the will, of again annoying our frontier." In another letter, written on the 5th of May, he says, the resistance of the enemy had been feeble; that it had been a war of movements and partial rencontres; that the Red Sticks had been severely convinced; and the Seminoles were too weak in numbers to believe they could maintain a war against the United States. In this same letter of the 5th of May, he gives the first intimation of an intention to occupy Pensacola. It has been stated, he says, the Indians have free access into Pensacola; are kept advised of our movements; supplied with munitions of war, and are collecting in that city to the amount of four or five hundred; that inroads from thence are made into Alabama, and eighteen settlers had been killed. If this is correct, says the General, Pensacola must be occupied by the American troops; the Governor treated according to his deserts, or as policy may dictate. The General then gives his "confirmed opinion" that, as long as Spain has not the power or the will to enforce the treaties by which she is bound to restrain the Indians, our frontier can have no security without occupying a cordon of posts along the seashore. Such are the facts and reasons by which the General defends the violent and hostile seizure of Pensacola and Barancas, and his subsequent proceedings respecting them. In these facts and reasons we must find that necessity which alone, by the law of nations, can justify measures so extraordinary. It would be a waste of time to make a particular analysis of the evidence to show how utterly insufficient it is to the purpose.

The war at an end; the enemy dispersed, exterminated, and broken down; having no longer the power, if he should have the will, to annoy us; the commanding General returning home, because his presence can no longer be necessary; the position taken being fully adequate to put down the war, should the foe have the temerity to renew it; and yet, with all this mass of facts testified by the General himself, and this confidence of opinion expressed by himself, we are to be told of necessities; of dangers; of inroads and murders, which shall justify us in one of the most high-handed measures that one nation can take against another. No, sir, these were not the motives; it was not because a few miserable, defeated, starving Red Sticks were fed by the Governor of Pensacola; it could not be because the enemy was kept advised from them of the movements of our army, after the war was over and all movement but towards their homes had ceased; it was not because the Indians had, as they always had, a free access into Pensacola, that our General chose to wrest by military force this place from the hands of its owner, in violation of the laws of civilized nations; and, being an act of war, in violation of the constitution of his country. It is not because Spain is not in a condition to insist upon her rights, or resent the violation of them, that the act is the more justified. The General did that which, in other circumstances, would have, rightfully, on the part of the offended nation, involved us in a war; and it will hardly be said such a power, under our constitution, is vested in any military commander. But, sir, the true motive of this bold step is exposed. The General has a confirmed opinion that, unless Spain performs her treaty with the United States, a cordon of posts along the seashore will be necessary; and he accordingly proceeds, without further consultation with his own Government, to occupy these posts. Here, then, we have a military officer undertaking to judge whether a treaty with a foreign power has been broken, and without inquiring what reason or excuse that power may have in explanation; without inquiring whether his own Government has been reasonably satisfied on the subject; without examining what course the policy and interests of his own country may dictate in such a case, he proceeds to apply, of his own will and authority, the remedy he deems most proper; that is, to wage immediate war on the other party; he takes into his hands the highest power the people can exercise themselves or grant to others—the power of putting the nation in jeopardy; of expending its blood and treasure, and involving it in the countless calamities of war. The people of the United States have intrusted this power only to their immediate representatives, and General Jackson has walked over our heads, and the heads of the people, in assuming it himself. This must not be.

Mr. ANDERSON, of Kentucky, said that he concurred with those gentlemen who considered the questions involved in the resolutions as intrinsically of the first magnitude, and fully meriting the free discussion which they had received; but, he said, it was true that the House of Representatives could give importance to any question. Such was the character and station which this House, under the constitution, must always hold before the people, that every subject which excites interest and feeling here, will command the attention of the nation. In giving his opinions on the questions, he should

only be anxious to give expression to those sentiments which he held, without stopping a moment to inquire whether they are consistent with those of gentlemen who voted with him. In examining the military transactions which gave rise to the debate, he acknowledged that he had felt an anxiety to find that the American officer was in the right; but the first consideration with him was, that in giving his opinions and his vote, he himself should be exactly right. On great political questions, it has been sometimes thought admissible to act from partisan feelings,—to express only those opinions which are sanctioned by party, and would conduce to success in the great end desired—but, in a case where the character of a high officer was involved, where our conduct should partake of judicial sacredness, it would disgrace a statesman to withhold any opinion because it differed from that of those with whom he voted.

The situation of Arbuthnot is different from that of Ambrister in one point; he was not found in the ranks of the enemy, but in a neutral fort. Most of the gentlemen who have supported the resolutions, admit that he had been previously an associate in the war, but contend that, as at the time of his capture he was a non-combatant, the analogy between his case and that of the Englishman is destroyed. The reason of the case certainly will not bear them out, and they have not produced any authority on the subject. It cannot be contended that if the General of the enemy was taken in a farm-house, either on his route from one wing of the army, to the other, or on a journey to his family, that he would not be a prisoner of war, although he might be entirely alone, and even destitute of arms. If Tecumseh, in the latter part of the war, had been captured in Canada, engaged in the work of a country laborer, would that fact alone have deprived him of his war character, and released him from its penalties? The true distinction is this: when an officer has resigned, or a soldier has been discharged, or either has in so effectual a way seceded, as to be no longer a member of the enemy's armament, then the military character ceases, and not before. No temporary absence will produce the end contended for; it must be an absence attended with circumstances clearly showing a permanent secession. Frequently the most effectual aid is given, by a partisan, who is absent, and who is physically a non-combatant, by advice and other modes of co-operation. In this case, where the previous association must be conceded, there are no circumstances which indicate a separation from the enemy. As far as any evidence arises from his situation in the fort, to which the enemy had constant access, it is altogether against him. There is a fact connected with this subject, which deserves consideration. Among civilized nations, only a small portion of the community is attached to the army, and of course the rules of war apply only to those who constitute it; the peasantry of the country is not subject to any of the penalties of the soldier; but among the Indians, there is no such distinction; among them none exists, except that which is produced by age and sex. Every man is a warrior. Every one, whom you take, is a prisoner, whether he be in arms or at rest. There is no military enrolment among them; if he belongs to the nation, he belongs to the army. This is certainly true, and is founded on habits invariably preserved by the Indians. Among us, and all European nations, that portion of the community engaged in husbandry, or in raising food for the army, is secured from the rules of war; but among the Indians, all the men fight, and the food is raised by the women, and, of course, this security from war is confined to them. If an Indian chief, found in the situation of Arbuthnot, would have been a prisoner of war, surely he was.

In a war with the Indians, who receive no heralds, and respect no flags, and with whom the massacre of prisoners is not an exception from their usual conduct, but the general practice itself, it cannot be required of General Jackson that he should have been guilty of the folly of sending to the Indians any individual of his army to demand satisfaction for that which was the common custom of the nation. The idea expressed in this resolution is contained in one passed in relation to the execution of Colonel Hayne, an American officer, although it is not conveyed in language so distinct: "*Resolved*, That the conduct of Major General Greene, in taking necessary measures of retaliation, be, and hereby is, approved." These resolutions clearly convey the opinion of the Old Congress, that the commanding officers of separate armies possessed this contested power by virtue of their commissions. Circumstances may be easily supposed, in which the utility of retaliation would be entirely lost, if this power must in every case be granted by the Legislature; in every war, which is to be concluded in a single campaign, (and this may be the character of many of the Indian wars,) if the officer did not possess it until he could refer the case to Congress, and procure the authority, the time would have passed at which it could avail him; the effect he would desire to produce, on the conduct of the enemy, would be lost, and the reference useless. This would always be the case where the seat of war was at a great distance from head-quarters. This view of the subject is strongly supported by the situation of an officer in a besieged town. Here all communication with his superiors is cut off, and if we deny to him this power of coercing his enemy to humanity, his situation is miserable indeed; his countrymen have failed to give him authority, and his enemies have deprived him of the means of acquiring it. If this power was lodged in the President, then there can be no difficulty, as General Jackson has received the subsequent sanction of his superior. But there is a letter of instruction, under which General Jackson might, if he were disposed, cover almost any thing, certainly every

thing which he did. In the letter of the 16th January, from the War Department, there are these remarkable and extraordinary words: "The honor of the United States requires that the war with the Seminoles should be terminated speedily, and with exemplary punishment for hostilities so unprovoked." It is very difficult to ascertain the precise instructions which the Secretary meant that these words should convey. They cannot mean that the American officer should march rapidly, fight gallantly, and slay all who resisted in battle; all this required no order. It is certain that no authority has been exercised, which these words are not broad enough to convey. Mr. A. said he did not contend that the Secretary thought of such a case as had occurred, or that General Jackson wished to deduce his justification from it, but he would most confidently assert, that, if the officer were in the course of a trial driven to extremity, these words give him an ample patent.

Mr. A. said, that it was now manifest to the committee that he derived no part of General Jackson's authority from the sentence of the court-martial; his power was possessed without their interference, and might be exercised in direct opposition to it. It may then be demanded, why was it convened? This still produces no difficulty. It might be convenient to the General to have its opinion and advice; or to have its aid in ascertaining the facts. But you might go still farther, Mr. Chairman, and admit, that to convene the court was useless, and that General Jackson's conduct to it was indecorous and insulting, and still the question before us is not affected; his lawful authority was still the same. Any individual in private life may ask, and then reject, the advice of his friends; this indeed is very rude, but his right is undisputed. The commander of an army frequently convenes his officers to hear their opinions on the propriety of fighting or retreating, but no one ever doubted his authority to reject their advice. The order for convening the officers in this case, and the circumstances of their having proceeded under all the forms of a court, cannot change their character. If the General possesses the power without them, their sentence can be no more than advice.

It is evident, said Mr. A., from the reasons which I have assigned, that my ground of justification does not cover Pensacola. As the occupation of both posts is presented in the resolution for censure, he could not, in any event, vote for the general resolution; but he would not rest his vote on that ground; he would as promptly oppose the one as the other. Before he could give his assent to this proposition, it must be established that every difference of opinion authorized a vote of disapprobation. Before he proceeded to examine the case, he would make a reply to an observation which had been repeatedly made in the debate. It had been said that the passage of these resolutions would convey no censure directly on the officer; that his name is not mentioned. Gentlemen say that the first and third resolutions are merely preambles, or recitals of the mischief, which shows the necessity of adopting the others, and founding a law on them. But, Mr. Chairman, every vote which passes this House receives a part of its character from the debate which precedes it; and, after the manner of this debate, and the spirit which has marked it, it is in vain to say that the passage of these resolutions would not convey the highest censure.

SATURDAY, January 30.

Seminole War.

The House then proceeded to the order of the day, and again took up, in Committee of the Whole, the report of the Military Committee, on the subject of the Seminole war.

Mr. LOWNDES, of South Carolina, said, that before he entered into the consideration of the arguments on which he supposed that the determination of the resolutions before the committee should principally depend, he would advert, for a moment, to some observations made by the Speaker, in relation to the treaty of Fort Jackson. His absence from this country at the period of the treaty, and for some time after it, sufficiently accounted for his information being incorrect upon this topic. He had said that it would have been worthy the generosity of the Government to have given some consideration to the Indians, for the cessions of land which it obtained. The records of the country would show that this was the course actually pursued. After the ratification of the treaty of Fort Jackson, the journal of the commissioners who made it, was laid before the House of Representatives. It contained a declaration of the chiefs who signed the treaty, that they were not satisfied with its terms, although they would not withhold the signature which was insisted on. The same paper furnished the proof that the cessions in the treaty were not made with the free consent of the chiefs, and an exposition of the terms on which that consent would have been given. The House of Representatives, he believed, by a unanimous vote, passed a bill, which gave to the Indians the terms, with which, at the conferences at Fort Jackson, they had declared that they would be fully satisfied. This bill had become a law, and, if the conditions of the treaty had been such as it was harsh to exact, the Government, which gave a sum exceeding one hundred thousand dollars, as an equivalent for a cession which, by treaty, was to have been made without any equivalent, had pursued precisely the conduct which the Speaker had declared he could have wished.

Mr. L. would not say that the act was liberal and magnanimous. Such praise should be reserved for greater occasions. But it was just. Nor had he ever heard, nor did he believe, that the conduct of the United States, after the treaty of Fort Jackson, had given ground of

complaint to the Creek nation, inhabiting within their boundaries. Fugitives, indeed, from the nation, unwilling or afraid to trust themselves among their countrymen, had sought refuge in Florida, but their flight did not divest the nation of the rights of negotiation and government. Nor did they pretend it. They sought only for personal safety, and, at the date of the Treaty of Ghent, there was no war between the United States and any part of the Creek nation.

Mr. L. said that he considered himself fortunate in having an opportunity of addressing the Chair, immediately after the gentleman from Kentucky, (Mr. ANDERSON,) who had just taken his seat. He did not concur, in general, in the conclusions which that gentleman had formed, but he should gladly follow his example, in abstaining from the discussions of questions which were not necessary to the decision of the resolutions before the committee. And upon questions of this sort more than half of the debate appeared to him to have turned.

There was no resolution before the committee declaring that the President was not authorized to direct the march of our troops into those parts of the Seminole country which lay beyond the boundary of the United States. He should not discuss the question. He unequivocally admitted the right.

There was no resolution before the committee declaring that the Government of the United States was not authorized, by the unfriendly conduct of Spain, to occupy Florida, or to resort to general hostilities. He would not discuss this question. He agreed with every member who had spoken, that Congress had the right to declare war against Spain, if it thought it expedient so to do.

But had General Jackson the right to take possession of St. Marks and Pensacola? Had the President of the United States the right? The rights of his subordinate officer were not greater than his own.

Gentlemen must recollect the deliberations upon this subject during the last session; the notice of a proposal by a member from Georgia for the seizure of Florida—the decision of the Committee of Foreign Relations against the expediency of seizing it—the acquiescence of the House in the opinion of their committee. If any man had suggested, during the last session, that Congress, by avoiding the determination of the question of occupying Florida, would have left it open to the decision of the President, or the General, the suggestion would have been heard with utter incredulity. If Congress could have believed that by their omission to act, the power of changing the pacific relations of the country would have been devolved upon any executive officer, he did not doubt that they would have directed, explicitly, what those relations should be. But who could have foreseen that the very circumstances which in March last were insufficient to give the sanction, even of political expediency, to the occupation of Florida, were soon after to be the principal constituents of a military necessity, which would justify a General in taking what the Congress of the United States had determined not to take?

The power of declaring war is given only to Congress. To employ the army of the nation for the purpose of taking possession by force of the territory, the towns, and even the forts of a foreign State, seems to fulfil every condition which can be necessary to constitute an act of war. If such an act be done by an officer who has authority to do it, it is war. It was war, then, if General Jackson was authorized by his office, or by the legal orders of the President, to take possession of Pensacola; and to say that he was authorized by neither, is at once to admit the truth of the position taken in the resolution. A necessity, indeed, which would make the act involuntary, would change its character of hostility; but he must reserve this topic of necessity for another part of his argument. It was not alone, however, the power of declaring war which was given to Congress; the power of employing force against the property or possessions of a foreign nation, under circumstances which do not amount to war, is also confided to the same authority.

The framers of the constitution did not repose that happy confidence in Executive or military officers which might have induced them to give to Congress only the right of proclaiming a solemn and general war, and to leave to the Executive or the military the right of engaging in partial hostilities. If the people of Pensacola, encouraged by the local government, had employed their ships in directly plundering our property, the principles of national law would justify the United States in giving to their citizens the indemnity which the capture of Spanish ships would afford. But by whom must this capture be authorized; by whom must letters of marque be issued—in other words, by whom must the employment of force against the property of a foreign nation, under circumstances which do not amount to war, be directed? By the Congress of the United States. And is there, then, plausibility in the argument which supposes that the President or the General may take, by force, the acknowledged territory of a foreign power, or even besiege and assault his forts—and this, under a constitution which, by the plainest words, reserves to the Legislature the exclusive power of authorizing the capture even of a schooner on the high seas?

Mr. L. considered it clear that the President had no right to authorize the capture of St. Marks and Pensacola. And the documents upon the table sufficiently proved that such was the view he had taken of his own powers. To have retained Pensacola, even until the meeting of Congress, would have been, he says, to have changed the relations between the two countries. To such a change (he adds) the power of the Executive is incompetent. To have retained Pensacola for a month or two, against the will of Spain, would have been war; the order for its restoration was therefore given,

promptly, and without the slightest intimation of any change in the condition of the Indian enemy, or of our own army, which would make its retention less necessary or less justifiable than its original capture. Are we, then, to believe that, to have retained possession of Pensacola for a few months, against the will of Spain, would have been war, and that to have taken it by force, to have entered it by military capitulation, was not an act of war; that it did not even imply any change in the state of our foreign relations, to which the power of the Executive was incompetent?

Mr. L. had referred to the President's conviction of a want of authority on his part, to retain or to take Pensacola, with no view of substituting authority for argument: but by an ingenious construction of vague and general phrases, an attempt had been made to show that powers sufficiently large had been given to General Jackson to authorize the occupation of Pensacola. He did not wish to engage in this verbal criticism. A sufficient proof that the President did not design to give any power for occupying Pensacola, was found in this, that he did not consider himself authorized to give any. Argument, however, upon this subject, was as unnecessary as criticism. The gentleman from New York (Mr. STORRS) had proved, by the extracts which he had read from the President's message and from Mr. Adams's letter, that the occupation of St. Marks and Pensacola was without the authority of the Government, and on the responsibility of the commanding General.

The President, then, had no right to give an order for the occupation of the places in question, and he had given none. But he had given orders, the fair and obvious import of which forbade the occupation of St. Marks and Pensacola. If the Indians took shelter under a Spanish fort, the General was not to attack them, but to notify the Department of the fact. Now, he would ask the committee for a moment to suppose that the Indians, beaten and pursued through their swamps, had actually taken refuge under the guns of Pensacola. What would have been the situation of General Jackson? What his powers and duties? The very exigency foreseen, and provided for by the instructions of the War Department, would have occurred. He could not have attacked the Indians or the fort, because it sheltered them; could he have attacked both for other reasons? What would have been his letter of justification to the Secretary of War if he had done so? Sir, the very contingency has occurred which your letter has anticipated. The Indians have taken shelter under a Spanish fort. Not authorized on this account to have attacked them, I should have merely notified the Department of the fact. But other circumstances justified a different conduct. I found not merely that the Indians had taken shelter under a Spanish fort, but that when there the Spaniards gave them aid and comfort, and access and information, and ammunition and provision. On these grounds they became associates in the war. Must not the answer of the Executive Government to a letter of this sort have been that, in ordering no attack to be made upon Indians sheltered under a Spanish fort, the President had ordered that upon no evidence of association or connection between Indians and Spaniards, should the General undertake to attack the fort of a nation with which we were at peace; that the President well understood that Indians do not move with magazines and provisions, and all the equipage of war; that when he anticipated the event of their taking shelter under a Spanish fort, all those acts of communication, aid, and supply, were supplied, without which their shelter would have been decoy and destruction? If all the circumstances on which General Jackson rests his defence for occupying Pensacola, had been enforced by the much stronger circumstance of an embodied Indian force lying at the time under its walls, he would have disobeyed his instructions in attacking either the Indians or the fort. Does it come to this, that General Jackson was authorized to attack the fort because the Indians had not taken shelter under it?

But what occasion, it has been said, is there to do any thing on the subject? None; if General Jackson did not exceed the powers with which he was intrusted; but if he exerted one of the highest prerogatives of government which is confined to no less authority than the entire Legislature of the country, are we willing to employ our own powers when we think it right, and when we do not to let anybody else assume them? The character of General Jackson is said to be implicated in the vote which is proposed. The opinion of the world and of posterity will not be affected by that vote. There is nothing in the fact or the resolution to impeach his military glory or his patriotism. But the character of the country does not depend alone upon its military exploits. Its civil institutions, its liberty and laws, are elements of the national reputation quite as valuable. To suppress our disapprobation, if it were merited, would not raise the character of General Jackson, but would impair our own.

He could, indeed, suppose cases where power not given by the constitution might be assumed by an Executive officer rightly and necessarily; but he could suppose none in which this assumption should be passed over in silent acquiescence. Indemnity might be extended to the officer and justification to the act, but the absolute necessity, which could alone furnish that justification, should be recorded by the vigilant guardians of the constitution.

He should therefore vote without hesitation for the resolution disapproving the occupation of St. Marks and Pensacola. But upon the subjects of the other resolutions, his views differed from those of the gentlemen with whom he fully concurred in that of which he had been speaking hitherto.

As to the condemnation of Ambrister, he believed, that the power of military execution was inseparably connected with that of directing the military force of the State against an enemy. That enemy must be attacked. Who has the power of receiving their capitulation or surrender? of admitting them into the peace of the country? Not only the usages of war, but the principles of humanity and virtue, require that the unresisting enemy should be spared in general; but this obligation of mercy is not universal. It is not held to extend to those who have broken their parole; nor, by a much stronger reason, to those who make of war an indiscriminate massacre. The right of military execution was, indeed, at least as easily to be deduced from first principles, as that of execution for civil crimes. In neither case was wanton severity to be justified. The Executive Magistrate must decide whether mercy can be safely extended to the obdurate offender against municipal law, and the commanding General, whether quarter can be prudently given to the savage, who himself does not give it. He did not mean, however, to engage in the argument upon this topic, which had been very fully discussed, but merely to state the opinion that, in ordering the execution of Ambrister, against the advice of a council which he had summoned, General Jackson had not exceeded his military authority, although he had indeed assumed a high responsibility.

The case of Arbuthnot appeared to him different in its principles. He did not see how the right of military execution could be applied to any man, who was found under the protection of a nation with which we were at peace. He supposed it restricted to enemies taken in war, and limited both in time and place. Whether our occupation of St. Marks were friendly or hostile, he did not understand how its inhabitants, whether combatants or not, had become subject to military execution. Nor, though it were true, that an atrocious crime would otherwise have gone unpunished, did he admit that a military tribunal should be called in whenever it may be feared that justice would otherwise be disappointed of its victim. Mr. L. said that he had been struck with the indifference which had been displayed throughout the argument to what he deemed most important principles of national law; that the jurisdiction of crimes shall be confined to the nation in which they are committed, and that the Government which is injured must obtain its redress from the nation which permits them to pass unpunished. He knew no State more interested in the maintenance of these principles than the United States. They were, indeed, necessary to the independence of all nations.

Mr. L. said that he should not vote for either of the bills which it was proposed to bring in. For the bill which required the sanction of the President, in time of Indian war, to the execution of a captive, he objected, because, if this power should be lodged in an executive officer at all, in what officer it should be lodged must depend upon considerations only of expediency; and it was necessary to its prompt and useful exercise, that the decision of the General should not wait upon that of the President.

Where the troops of the United States cannot be marched beyond our boundary without committing an act of war against a nation with which we are at peace, he believed that the constitution now prohibits their march, unless by the authority of Congress. Mr. L. had no faith in the benefits of the supplementary law which was proposed. But there might be many cases in which troops might be properly marched beyond the United States without commencing war; either where war had been made against us by another nation, or where a territory, in our neighborhood, was abandoned by its Government. He could not willingly add to the evils of an act which he deeply regretted, by making it the occasion of an improvident law.

MONDAY, February 1.

Seminole War.

The House then again resolved itself into a Committee of the Whole on this subject, Mr. BASSETT in the Chair.

Mr. H. NELSON resumed the remarks which he commenced on Saturday, and spoke about two hours in opposition to the resolutions of censure.

Mr. TYLER, of Virginia, said that he owed an apology to the committee for rising at so late a period of the debate to address it. He proposed to present a very brief sketch of the views he had taken on this interesting subject. At the onset, I close in, Mr. Chairman, with the position laid down by the gentleman who has just addressed you, (Mr. NELSON,) and say, that, however great may have been the services of General Jackson, I cannot consent to weigh those services against the constitution of the land. Other gentlemen will, no doubt, yield me the correctness of this position. Your liberties cannot be preserved by the fame of any man. The triumph of the hero may swell the pride of your country—elevate you in the estimation of foreign nations—give to you a character for chivalry and valor; but recollect, I beseech you, that the sheet anchor of our safety is to be found in the constitution of our country. Say that you ornament these walls with the trophies of victory—that the flags of conquered nations wave over your head, what avails these symbols of your glory if your constitution be destroyed? To this pillar then will I cling. *Measures* not *men*—and I beg gentlemen to recollect it, has ever been our favorite motto. Shall we abandon it now? Why do gentlemen point to the services of the hero in former wars? For his conduct there he has received a nation's plaudits, and won our gratitude. We come to other acts. If our

motto be just, we must look alone to the *act*, not the *actor*. It is only then that we shall judge correctly. A Republic, sir, should substitute the Roman Manlius, and disapprove the conduct of her dearest son, if that son has erred. From what quarter do you expect your liberties to be successfully invaded? Not from the man whom you despise; against him you are always prepared to act—his example will not be dangerous. But, sir, you have more to fear from a nation's favorite; from him whose path has been a path of glory; who has won your gratitude and confidence—against his errors you have to guard, lest they should grow into precedents and become in the end the law of the land. It is the precedent growing out of the proceeding in this case that I wish to guard against. It is this consideration, and this only, which will induce me to disapprove the conduct of General Jackson.

Our sympathies have been appealed to in his behalf. There exists no cause for the appeal. Are we about, by this vote, to wither the laurels which bloom on his brow—to deprive him of character, of standing? No, sir, we arraign not his motives. On all hands it is conceded to his supporters that his motives were correct. Did we insist that he had intendedly violated the constitution and the law, then should we make a charge, which, if supported, would properly degrade him in the estimation of all good men. But we make no such charge—we disapprove only his acts. Is this a vote of censure of the odious character which it has been represented to be? Censure implies bad motives and bad acts. Say, if you please, that I have shot my arrow over the house and wounded my brother. He complains of my act, not my intentions, because he is aware they were innocent; but, although he neither upbraids nor censures me, the wound still festers in his side. Is there not even a wide distinction between a vote of censure, in the obvious acceptation of the term, and a vote of disapproval? Is there any thing more common than for an officer ordering a court-martial to disapprove the sentence of the court, and direct it to reconsider its opinion—and yet, was ever such disapproval esteemed a censure on the court? An inferior court gives an erroneous opinion; an appeal is taken to a superior tribunal; the opinion of the inferior court is reversed—was such reversal ever construed to imply a censure on the judge? You differ from me in opinion. You disapprove my premises and the deductions therefrom. Sir, was it ever heard of before, that this difference of opinion required us to regard each other as such objects of censure, as to interrupt our harmony or mutual respect and confidence? We do nothing here but combat the opinions and actions of the General, and if gentlemen will have it so, of the Executive. Shall we be denied the liberty of boldly and manfully expressing this difference of sentiment? Sir, I protest against this slavery of the mind. The body may be enchained and bowed to earth, but that ethereal essence resists your power and scoffs all efforts to enthral it.

What are the points of difference arising out of this case? Gentlemen justify the capture of St. Marks on the plea of necessity; we contend that no such necessity existed; and believing so, we disapprove the capture. We agree, in our premises, that the General would only have been authorized to seize a neutral post, in order either to save his army, or to guard the post against the imminent hazard of falling into the hands of his enemy. We call upon gentlemen for the proof of the existence of such necessity, or of such danger. The letter of the Governor of Pensacola, informing General Jackson that the garrison of St. Marks was too weak to defend itself against a hostile attack, and that the enemy had made demonstrations of an intention to seize it, will not justify him in having taken possession at the time he did. Before he approached, the danger had retired; no force was before it, nor within a great distance of it; nor had he any enemy in his rear, and his army was easily thrown between the fort and the foe. Sir, every document on your table goes to prove that the Indians were defeated, their forces broken, and that they had sought shelter and protection from the ruin and destruction which pursued them, in their swamps and hiding places. An attack on St. Marks was, therefore, rendered improbable. But admit, for the sake of argument, that this was not the case; nay, Mr. Chairman, to give to our opponents the strongest of all possible cases, let us imagine the Indians in possession of the fort—would your army have been in danger? Can any gentleman believe it? Sir, did you ever hear of an Indian using cannon in action? Their situation would, indeed, have been ludicrous. I submit it, in the spirit of candor, to gentlemen to say, if the General could more ardently have wished for any event, than that the enemy should have concentrated the whole of his forces at St. Marks, with the settled determination of holding the post. He would have been saved the fatigue of marching further; one action would have terminated the sufferings of his army; the defence would have been weak and unavailing, and a new spark of glory would have illumined the crest of the hero.

The remarks which I have made relative to the seizure of St. Marks, are now strongly applicable to that of Pensacola. It is in vain you tell me that the Governor was destitute of principle—had violated his neutrality—had given shelter to a poor, miserable, broken, and defeated foe—a foe, who, like the hunted beast of the forest, had held you but a moment at bay, and was then flying to his secret places, far from the haunts of civilized man, to hide himself from the desolating vengeance which pursued him. Sir, I carry you back to my first position. Congress, and not the General, was alone authorized to make war upon him. Will it be said, that necessity, which justifies all

things, authorized its capture? Where is it to be found? Indians retreated to the town—were in possession of it, if gentlemen will ask the admission. We require that the General shall look to his orders. It is the very case they contemplate—he must report to the Executive. But a threat is made—you are braved to your teeth. The gauntlet of defiance is thrown—you are threatened with an attack—let it come on. The storm has no terror for the brave, nor can the frown of the Spaniard shake the soul of the hero. But there was no danger to be apprehended. The Governor had no force with which to make the attack. My honorable friend from Virginia, (Mr. BARBOUR,) in graduating the necessity of this case, states, that if the attack had been made, Jackson would have been justified in seizing Pensacola. True, his right to seize might have existed, but he could have held it only for a moment. The assailant vanquished, the General would have been compelled to have returned to him his armor.

As to the remaining points of inquiry, I shall be very brief. Sir, my only object is to present you what I esteem the strong points of these questions. I do not wish, even if I had the power, to perplex you with subtle and ingenious reasoning. My object is to meet the questions fairly—to encounter the arguments of honorable gentlemen with such force as I can, and to contribute, as far as my humble talents will permit me, in elucidating this interesting subject. If, Mr. Chairman, the capture of St. Marks was unauthorized, the execution of Arbuthnot must of necessity have been so. Spain was a neutral in the war. Her flag, therefore, for he was in St. Marks, protected Arbuthnot from your power. This is the principle for which we have never ceased to contend. The same principle prevails on the land and on the ocean. If this man had been on board a Spanish vessel, according to this rule, one of your naval officers would have had no authority to have dragged him from on board that vessel and punished him with death.

The execution of Ambrister and the two Indian chiefs I consider equally indefensible. Although the reasoning applicable to the case of Arbuthnot is not applicable to that of Ambrister, yet all the reasons which go to show the impropriety of the execution of the latter, apply also to the former. I shall not stop to inquire whether the court-martial was properly organized, or proceeded with due solemnity and form. This has already been sufficiently canvassed, and in my estimation constitutes only a secondary branch of inquiry. I reason from great principles recognized by the law of nations. That law recognizes but one reason cogent enough to authorize a General to put to death his prisoners. And that is, "where the safety of his men requires it." Was that safety implicated by suffering a wretch to live? Was the existence of his men or his army endangered in the life of a miserable vampire who had crawled from the sinks of European corruption, and had visited this western shore, either to exist in the commission of crime himself, or on the enormities of others? Or did the continuance of the lives of his Indian captives threaten discomfiture and overthrow? It cannot be pretended. The first was too insignificant to have excited such fears—the power of the last was broken, and all their efforts defeated. The rifle and tomahawk had been struck from their hands, and they were prisoners, defenceless and disarmed. Sir, would it not have better comported with your national character, if, instead of executing these captives, the General had said to them, "go, I give you your liberty: go to your few surviving warriors, and tell them that that nation against whose defenceless frontiers you have raised the murderous scalping-knife, with whom you have ever been at war, whose blood you have delighted to drink—that nation, so abused, so insulted, has no law to punish you: it restores you to your native forests, and has only to ask that you will abandon your enmities, and instruct your warriors how to respect her rights." I cannot but think that this would better have accorded with the principles of humanity and the laws of nations.

TUESDAY, February 2.

The Seminole War.

The House then again went into Committee of the Whole, Mr. SMITH of Maryland in the Chair, on this subject.

Mr. POINDEXTER spoke near three hours in support of his opinions, and in reply to gentlemen on the other side of the question.—His speech follows, entire.

Mr. POINDEXTER addressed the Chair as follows:

I rise, Mr. Chairman, under the influence of peculiar sensibility, to offer my sentiments on the subject before the committee. We are called upon to disrobe a veteran soldier of the well-earned laurels which encircle his brow, to tarnish his fame by severe reproaches, and hand down his name to posterity as the violator of the sacred instrument which constitutes the charter of our liberties, and of the benevolent dictates of humanity, by which this nation has ever been characterized and distinguished. Were the sacrifice of this highly meritorious citizen the only evil with which the proposed resolutions are fraught, I should derive some consolation from the reflection, that there is a redeeming spirit in the intelligence and patriotism of the great body of the people, capable of shielding him against the deleterious consequences meditated by the propositions on your table. But there is another, and more serious aspect, in which the adoption of these resolutions must be viewed; the direct and infallible tendency which they involve, of enfeebling the arm of this Government, in our pending negotiation with Spain; of putting ourselves in the

wrong, and the Spanish Monarch in the right, on the interesting and delicate points which have so long agitated and endangered the peace of the two countries. I wish not to be understood as attributing to honorable gentlemen, who advocate the measure, such motives; they are, doubtless, actuated alone by a sense of duty. I speak of the effects which our proceedings are calculated to produce, without intending to cast the slightest imputation on those who entertain different opinions. Sir, do we not know with what delight and satisfaction the Minister of Spain looks on the efforts which are made on this floor to inculpate the Executive of the United States, for having committed against his *immaculate* master an act of hostility, in the entrance into Florida, and the temporary occupation of St. Marks and Pensacola? With what avidity and pleasure he peruses the able and eloquent arguments delivered in the popular branch of the Government, in support of the weighty allegations which he has already exhibited of the hostile and unwarrantable conduct of the commander of our army, during the late campaign against the Seminole Indians? And, sir, whatever may be the purity of intention, which I shall not presume to question, on the part of gentlemen who censure the course pursued by the commanding General, this debate will afford a valuable fund, on which Spain will not fail to draw, on all future occasions, to show that the pacific relations which she has endeavored to maintain, have been violated, without an adequate cause, by the United States. Shall we put it in her power to make this declaration to the civilized world, and establish the fact by a reference to the Journal of the House of Representatives? I hope and believe we shall not. Sir, the nature of our free institutions imperiously requires that, on all questions touching controversies with foreign powers, every Department of this Government should act in concert, and present to the opposite party one undivided, impenetrable front. The observance of this rule accords with every dictate of patriotism; and is the basis on which alone we can preserve a proper respect for our rights among the great family of nations. Internal divisions are often fatal to the liberties of the people; they never fail to inflict a deep wound on the national character; the lustre and purity of which it is our primary duty to preserve unsullied, to the latest posterity. Can it be necessary to call to the recollection of the committee the peculiar and delicate posture of our relations with Spain? A protracted and difficult negotiation, on the subject of boundary and spoliations, is still progressing between the Secretary of State and their accredited Minister, at this place; the result is yet extremely doubtful; it may, and I trust will, eventuate in a treaty satisfactory to the parties, on all the points in contest; but, if Spain should continue to reject the moderate and reasonable demands of this Government, the indisputable rights of this nation must and will be asserted and vindicated by a solemn appeal to arms. I ask if, in such a crisis, it is either wise or prudent to pronounce, in the face of the world, that we have been the aggressors, and that war in its most offensive and exceptionable sense has been already commenced by General Jackson, under the sanction of the President of the United States? I hazard nothing in affirming that such a departure from the established usages of nations is without a parallel in the history of any country, ancient or modern. Under whatever circumstances danger may threaten us from abroad, it is from this House that the energies of the people are to be aroused and put in motion; it is our province to sound the alarm, and give the impulse which stimulates every portion of the Union to a simultaneous and manly exertion of its physical strength, to avenge the insulted honor and violated interests of our country. We are the legitimate organ of public sentiment; and it is incumbent on us to animate and cherish a spirit of resistance to foreign encroachments among our constituents, by urging the justice of our cause, and the necessity of their vigorous co-operation in support of the constituted authorities, who are responsible to them for the faithful execution of the high and important duties with which they are intrusted. These are the means by which we shall perpetuate our Republican form of Government, and transmit its blessings to future generations. But we are required on the present occasion to forget the wrongs of which we have so long and so justly complained; to abandon, for a while, the lofty attitude of patriotism, and to tell the American people, in anticipation of a rupture with Spain, that it is a war of aggression on the part of their chief Executive Magistrate, commenced in Florida without proper authority; that the Spanish Government can consider it in no other light than premeditated, offensive war, made on them with a view of extending the territorial limits of the United States. The expression of these opinions, by this body, must cast a shade over the American name, which no lapse of time can obliterate; and, while we nerve the arm of the enemy, we shall approach the contest with an open denunciation against the President, who is charged with its prosecution to a speedy and favorable termination. He is denied the cheering consolation of *Union*, in the Government over which he has been called to preside, at a period of national peril, when every man ought to be invited to rally around the standard of his country. Sir, how is this most novel and extraordinary aberration from the legislative functions of the House attempted to be explained and justified? By gloomy pictures of a violated constitution; pathetic appeals to humanity, in favor of a barbarous and unrelenting foe; and lamentations over the blighted honor and magnanimity of the nation. I, too, am a conservator of the constitution; I venerate that stupendous fabric of human wisdom; I love my country, and will endeavor to rescue it from the odious imputations which have been so

freely cast on it in the progress of this discussion. I admonish gentlemen, who manifest such ardent zeal to fortify the powers of this House against military usurpations, that they do not suffer that zeal to precipitate them into an error equally repugnant to a sound construction of the constitution. The report of the Committee on Military Affairs, taken in connection with the amendments proposed by the honorable member from Georgia, (Mr. COBB,) may be classed under two general divisions. 1st. Resolutions of censure, on the conduct of General Jackson, in Florida, for a violation of the orders of the President, and of the constitution; and for the unlawful execution of the incendiaries, Arbuthnot and Ambrister. 2d. Instructions to the committee to prepare and report two several bills, the object of which is to divest this nation of some of the most essential attributes of sovereignty. I shall pass over the latter branch of this subject without observation; believing, as I do, notwithstanding the high respect which I entertain for the mover, that it is not seriously the intention of honorable gentlemen, by an act of legislation, to abrogate the rights of this nation, founded on the universal law of nature and of nations. Self-denial, though sometimes an amiable quality in an individual member of society, when applied to the whole community, renders it obnoxious to insult and oppression, and is a voluntary degradation, below the rank of other sovereignties, to which no American ought ever to submit. Neutral rights, and the usages of war, are already well established and understood by all civilized powers; and it is not to be presumed that the interpolations which are proposed would be reciprocated, and constitute the basis of new principles of public law; we may prostrate our own dignity, and paralyze the energies of our country, but we shall find no nation so pusillanimous as to follow our disinterested example.

Considering, therefore, these propositions as merely nominal, intended only to enlarge the group, and give diversity to the picture, I shall leave them without further animadversion, and proceed to investigate the resolutions levelled at the fame, the honor, and reputation, of General Andrew Jackson; and, through him, at the President, under whose orders he acted, and by whom he has been sustained and vindicated. Sir, I hold it to be the indispensable duty of every tribunal, whether legislative or judicial, to examine with caution and circumspection into its jurisdiction and powers, on every question brought before it for adjudication; and this rule ought more particularly to be observed in cases involving personal rights and interests, where the party to be affected by the decision is not permitted to answer in his own defence. I ask, then, sir, has the House of Representatives, as a distinct and separate branch of Congress, the constitutional power to institute an inquiry into the conduct of a military officer, and to sentence him to be cashiered, suspended, or censured? I demand a satisfactory and explicit response to this interrogatory, founded on a reference to the constitution itself, and not on the undefined notions of expediency, in which gentlemen may indulge; and if it be not given, as I am very sure it cannot, we shall become the violators of that fair fabric of liberty, and erect a precedent more dangerous in its tendency, than the multiplied infractions which have been so vehemently alleged against General Jackson, admitting them all the force and latitude which the most enthusiastic *censor* could desire. Sir, it is high time to bring back this debate to first principles, and to test our jurisdiction over this case, by a recurrence to the structure of the Government of which we are a component part. Let us pluck the beam from our own eyes, before we seek to expel the mote which gentlemen seem to have discovered in the vision of General Jackson. The sages and patriots who established the foundation of this Republic have, with a wisdom and forecast bordering on inspiration, carefully marked and distributed the powers delegated in the constitution to the Federal Government among the several departments, Legislative, Executive, and Judiciary. No principle is better settled, or more generally conceded, than that the powers properly belonging to one of these departments ought not to be directly administered by either of the others. The violation of this maxim leads, by inevitable results, to the downfall of our Republican institutions, and the consolidation of all power in that branch which shall possess the strongest influence over the public mind. Upon the independent exercise of the powers confided to each department, uncontrolled, directly or indirectly, by the encroachments of either, depends the security of life, liberty, and property, and the stability of that constitution which is the pride of our country and the admiration of mankind. The honorable gentleman from Georgia has adverted to the opinions of the immortal author of the letters of Publius, the late Chief Magistrate of the United States; and the honorable Speaker has also invited our attention to that great constitutional lawyer. They triumphantly ask, what *he* would say on the present question, were he a member of this House? I will not follow the example of these gentlemen, by substituting declamation for historical truth, or vague surmises, and assumed premises, for record evidence; but, while I accord to the distinguished statesman and patriot, whose exertions so eminently contributed to the establishment of this Government, and whose exposition of its fundamental principles cannot be too highly appreciated, all the merit of a useful life, devoted to the public service, guided by wisdom, virtue, and integrity; I appeal with pleasure and confidence to his able pen in support of the position which I have advanced, and which I deem an important point in the case under consideration. In the view taken by Mr. Madison, of the "meaning of the mixim which requires a separation of the departments of power," he repels the arguments

of the opponents to the adoption of the constitution, founded on the apprehension of Executive supremacy over the Legislative and Judiciary, which, it was contended, would ultimately render that branch the sole depository of power, and subject the people of this country to the despotic will of a single individual. Comparing the powers delegated to the Executive, with those granted to the Legislature, and the probable danger of an assumption by either of the functions appertaining to the other, he says:

"In a Government where numerous and extensive prerogatives are placed in the hands of a hereditary monarch, the Executive department is very justly regarded as the source of danger, and watched with all the jealousy which a zeal for liberty ought to inspire. In a democracy, where a multitude of people exercise in person the legislative functions, and are continually exposed, by their incapacity for regular deliberation and concerted measures, to the ambitious intrigues of their Executive Magistrates, tyranny may well be apprehended, on some favorable emergency, to start up in the same quarter. But, in a representative Republic, where the Executive Magistracy is carefully limited, both in the extent and duration of its power, and where the legislative power is exercised by an assembly, which is inspired, by a supposed influence over the people, with an intrepid confidence in its own strength; which is sufficiently numerous to feel all the passions which actuate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions, by means which reason prescribes; it is against the enterprising ambition of this department that the people ought to indulge all their jealousy, and exhaust all their precautions. The legislative department derives a superiority in our Government from other circumstances. Its constitutional powers being at once more extensive, and less susceptible of precise limits, it can, with the greater facility, mask, under complicated and indirect measures, the encroachments which it makes on the co-ordinate departments."

The correctness of the reasoning and predictions of this great and good man, who is called by the honorable Speaker the father of the constitution, has been often demonstrated in the practical operations of this body, and never more forcibly than on the present occasion. Scarcely a session of Congress passes without some effort to enlarge the scope of our powers by construction or analogy; and unless these systematic advances in this House to crush the co-ordinate departments, by an unlimited exercise of authority over all subjects involving the general welfare, be resisted with firmness and perseverance, they will, at no distant period, eventuate in the destruction of those salutary checks and balances so essential to the duration of our happy form of Government, and to the security of civil and political liberty. I deprecate every measure calculated to establish a precedent, which, in its effects, may lead to such dangerous consequences. An enlightened statesman has said that the concentrating all the powers of Government in the legislative body is of the very essence of despotism; and it is no alleviation that these powers will be exercised by a plurality of hands, and not by a single one. "An elective despotism was not the Government we fought for; but one which should not only be founded on free principles, but in which the powers of Government should be so divided and balanced among the several bodies of magistracy, as that no one could transcend their legal limits without being effectually checked and restrained by the others."

Sir, whenever these principles shall cease to be respected by the councils of this country, I shall consider the grand experiment which we have made in the administration of a government of limited powers, founded on a written instrument, in which they are specified and defined, as altogether abortive, and as affording strong proof of the regal maxim, that man is incapable of self-government. If honorable gentlemen mean any thing by the reverence which they profess to feel for the constitution, I conjure them to look to its provisions, and forbear to adopt a measure in direct violation both of its letter and spirit. By article 2d, section 2, it is provided that "the President shall be Commander-in-chief of the Army and Navy of the United States, and of the militia of the several States, when called into actual service;" and by the 8th section of the 1st article, Congress is vested with power to "make rules for the government and regulation of the land and naval forces." Congress has long since fulfilled this duty; rules and articles of war have been sanctioned, and have continued to govern the army from its organization up to the present time; in these the great principles of subordination and responsibility are graduated and established, from the Commander-in-chief down to the most petty officer and common soldier. The President is placed by his country at the head of its physical force, "to execute the laws of the Union, suppress insurrection, and repel invasion;" he is the ultimate tribunal to decide all questions touching the operations of the army, and the conduct of the officers who compose it. If there be any power, clearly and exclusively belonging to the Executive, it is that which appertains to the government of the Army and Navy of the United States. Our whole system of laws recognizes it; and until this extraordinary attempt to erect the House of Representatives into a court-martial, with a view to cast an indelible stain on the character of General Jackson, without a fair and impartial trial, in which he might confront his accusers and be heard in his defence, no instance can be shown, since the foundation of the Government, where the President has been interrupted in the full exercise of his legitimate authority over the military officers under his command. The abuse of this power, or the improper direction and application of the public forces, by the Chief Magistrate, or by any subordinate officer, with his privity and assent, in a manner, or for the accomplishment of objects dangerous to the liberties of the people, or subversive of the laws and constitution of the

Union, will find a ready and suitable corrective in this House, by an application of its power to originate impeachment against the President, Vice President, and all civil officers, for treason, bribery, or other high crimes and misdemeanors. In this sense only can we be regarded as the grand inquest of the nation, and not to the unlimited extent for which gentlemen have contended. The power to impeach the President is expressly delegated; all other civil officers are liable to the same scrutiny, and the total omission, in the article of the military department, is, to my mind, conclusive evidence that they were never intended to be subject to the control of Congress, except in the usual course of legislation, under the power to raise and support armies. And this opinion is strengthened by the clause of the constitution to which I have referred, directing Congress to provide for the government and regulation of the land and naval forces. The principle of official responsibility is to be found in every page of the constitution; not a vague, uncertain responsibility, but that which is unequivocal, certain, and definite. We are answerable, at stated periods, to the people by whom we have respectively been chosen. The President is accountable to the nation at large at the expiration of his term of service; and, in the mean time, we hold a salutary check over his ambition, if he evince such a disposition, by means of impeachment. In like manner the whole civil department may be punished for a wanton prostitution of their official functions. The military and naval officers who command our army and navy are responsible directly to the Executive, who is their chief, and, through him, indirectly, to the Representatives of the people. Every link in the chain is essential to the beauty and symmetry of the whole; and, if preserved unbroken, affords the most ample security against any usurpation of power without a prompt and efficient remedy to detect and restrain it. It is now proposed to make this House the focus of every power granted to the Federal Government; to mount the ramparts which separate the departments, and compel every man who holds a commission to bow with submission to the gigantic strength of this numerous assembly. Those whom we cannot impeach we will censure, and record their names as fit objects for the scorn and detestation of posterity. Already we hold the purse and the sword of the nation. All legislation must receive our concurrence, in connection with the President and Senate, before it has the force and effect of law. The treaty-making power may be controlled by us where an appropriation is required to fulfil the contract—the judiciary is at our feet, both in respect to the extent of its jurisdiction and the liability of its members to the summary process of impeachment—the President and heads of department, foreign ministers, and the whole catalogue of civil officers, stand in awe of our frowns, and may be crushed by the weight of our authority. I ask, then, sir, if the officers of the army and navy are rendered subservient to us as a censorial, inquisitorial body, whether it will not amount to the "very definition of despotism." Yes, sir, we shall, if these resolutions pass, bear testimony of the soundness of the political axiom, that it is "against this department that the people ought to indulge all their jealousy, and exhaust all their precautions." But the constitution, in this respect, has received a construction almost contemporaneously with its adoption. As early as the year 1792, a resolution was submitted, by a distinguished member from Virginia, in the House of Representatives, requesting the President to institute an inquiry into the causes of the defeat of the army under the command of Major General St. Clair. The agitation produced by that momentous disaster seemed to demand an investigation of the conduct of the commanding General. A great public calamity is always calculated to awaken feelings which, for a moment, usurp the empire of reason, and lead to excesses which sober reflection would condemn. It was not, therefore, wonderful, that a man of the soundest intellect, and most enlightened understanding, should have felt it his duty to call the attention of the President to a subject so deeply interesting to the country, and to request an inquiry into the causes of that signal and unfortunate defeat. The proposition was fully discussed, and finally rejected by a large majority, on the ground that it was an unwarrantable interference with the constitutional functions of the Chief Magistrate. The substance of the debate may be found in the newspapers of that day; and among those who objected to the measure are the names of Madison, Ames, Baldwin, and many others who participated in the formation of the constitution, and who were, consequently, better qualified to give to it a sound interpretation. A committee was subsequently appointed to inquire into the expenditure of the public money in that campaign, and other subjects of a general nature, connected with the legislative duties of Congress. Again: in the year 1810, a committee was raised to inquire into the conduct of General James Wilkinson, in relation to a variety of charges which had been publicly made against him; they were authorized to send for persons and papers. The General was notified of their sittings, allowed to attend in person before them, to cross-examine the witnesses, to confront his accusers, to exhibit evidence in his defence, and make such explanations as he might think necessary to a vindication of his conduct. The committee, after a very laborious investigation, simply reported the facts to the House, who resolved that the same be transmitted to the President of the United States. No opinion was expressed or intimated, as to the guilt or innocence of the General; no request was made of the President to institute a court-martial, but he was left to the exercise of his own discretion, unbiassed by the slightest indication of the impression which the develop-

ment had made on the House of Representatives. The result, we all know, was, that a general court-martial was immediately convened, and General Wilkinson was honorably acquitted: both principle and precedent, therefore, combine in recommending a rejection of these resolutions, which claim for this House a power, not merely to request another department to perform a particular duty, but assume the right to adjudicate the case, and sentence an officer to irretrievable infamy, without a hearing, and without appeal, save only to his God and the purity of his own conscience.

Permit me, sir, to present to the view of the committee some of the unavoidable consequences which will flow from this premature and unauthorized proceeding. We announce to the President, and to the nation, that General Jackson, in the prosecution of the Seminole war, has violated his orders and broken the constitution of his country, and that, in the trial and execution of Arbuthnot and Ambrister, he has been guilty of the horrid crime of official murder. We, on the part of the whole people, become the informers, and thereby impose on the President, as commander-in-chief of the army, the indispensable obligation to adopt one of two alternatives—either to dismiss from the service that officer, under our denunciations, or to assemble a regular court-martial to investigate these charges, according to the forms prescribed in the laws enacted for the government of the army of the United States. The latter course, being the one best adapted to the attainment of justice, would, in all probability, be pursued. He details a court-martial, composed of high-minded military men; charges and specifications are exhibited; and the General, for the first time, is allowed to answer to them—guilty or not guilty. He is put on his trial, and at the very threshold he is informed that he has already been found guilty by the highest tribunal in the Union—the Representatives of the American people. He, nevertheless, proceeds in his defence, and is ultimately convicted, and cashiered. Would not history record such a conviction as the result of our prejudication of the case? Would not the whole world attribute the downfall of this man to the monstrous persecution and flagrant injustice of that ungrateful country which he had so nobly defended? Yes, sir, to the latest posterity we should be regarded as having passed an *ex parte* decree of condemnation, which the court-martial were bound to register, to secure themselves from similar animadversion. But let us suppose that, unawed by the imposing *dictum* which we shall have pronounced, the court-martial acquit the General of the several charges and specifications on which he has been arrested. We should then have the military of the country arrayed against this body: we, acting under the solemn obligation of our oaths, declare, that General Jackson has been guilty of high crimes and misdemeanors; we are enabled to tear from him his epaulettes; and, when tried by his peers, our opinions are scouted, and he is maintained in the high rank from which we would have degraded him. In such a controvery the only arbiter is force. Sir, take either horn of the dilemma, and we have abundant reason to shun the consequences which must follow the adoption of the proposed resolutions.

Our total inability to enforce the will of the majority, demonstrates most clearly the absence of the right to express that will; for, whatever any branch of the Government can constitutionally decide, the means necessary to carry its decision into execution can never be withheld or questioned. Sir, I have been not a little amused at the evasive contortions of honorable gentlemen, who, to avoid the perplexing difficulties by which they are enveloped, gravely affirm, that neither the report of the Military Committee, nor the resolutions respecting the seizure of the posts of St. Marks and Pensacola, and fortress of Barancas, contain a censure of General Jackson; that they are harmless, inoffensive expressions of opinion, upon the passing events relating to the state of the Union. I put it to those gentlemen—for the argument has been resorted to by all who have spoken—whether, if I were to address either of them in conversation, and say, in the language of the propositions before the committee, "Sir, you have violated the Constitution of the United States, and of course you are perjured. You have sentenced to death, and executed two of your fellow-men, without a fair trial, and contrary to all law, human and divine; consequently, your hands are stained with their blood;" would they calmly reply, that my expressions conveyed no censure on them, and were not repugnant to their feelings or character, nor inconsistent with contemporaneous assurances of my high respect and consideration? Common sense revolts at conclusions so ridiculous, drawn from such premises. Add to this the express charge of a violation of orders, which the President, it seems, is not competent to determine for himself, and I may venture to defy any gentleman to cover a military officer with more odious epithets, or more vindictive censure. No man, however elevated his station, can withstand the overwhelming force of such an assault on his reputation, coming from this august body, after mature and solemn deliberation. The exalted mind of General Jackson would prefer even death to this fatal blow, aimed at that which is more dear to him than life—his well-earned fame and irreproachable honor. Sir, the immortal Washington was charged with a violation of the constitution, in drawing money from the Treasury to pay the militia who served in the campaign against the insurgents in 1794, without an appropriation made by law: but at that day the secret of our power to censure had not been discovered, and the transaction passed without animadversion. It has remained for us to put in motion this new engine of inquisitorial crimination, and to wield it against a man whose arm was never extended but in defending the

liberty and safety of his country against the complicated enemies by whom it has been assailed, and whose pure and unblemished patriotism, combined with his invincible valor, fortitude, and perseverance, have shed over his brow a resplendent ray of glory which neither clouds nor tempests can obscure, so long as virtue shall predominate over the envious and malignant passions of the human heart. Yes, sir, we are importuned to execrate the bloody deeds of the Seminole war, to chant requiems over the tombs of Arbuthnot and Ambrister, and to mourn over the wreck of our fallen constitution; and, in an instant, as if by enchantment, the horrid picture vanishes from our affrighted imaginations, and eludes even the grasp of keen-eyed malice; and we hear the moral integrity and innocence of all these transactions announced from the same lips which utter their condemnation. The motives and intentions of General Jackson are eulogized and applauded by his most inveterate accusers. All the errors ascribed to him, and for which honorable gentlemen are prepared to immolate his character, and render his name, hitherto so dear to his countrymen, odious and detestable, are attributed to the impetuous ardor of his zeal to promote the general good, and give peace and security to our defenceless frontier.

He fills a space in the public eye, and commands a portion of the affection and confidence of his fellow-citizens, too copious and extensive to be tolerated by the sharp-sighted politician, whose splendid eloquence fades and evaporates before the sunshine of renown, lighted up by the unparalleled achievements of the conqueror of the veterans of Wellington. These modern casuists endeavor to magnify an unintentional violation of the constitution into a crime of the blackest enormity, which can neither be extenuated nor forgiven. Are they willing to make this system of political ethics applicable to themselves, and to have their names specified on the Journal as culprits at the bar of an offended people, stamped with infamy and disgrace, if at any time they have, with the best intentions, given a vote, which, on a review of the subject, was found to conflict with some provision of the constitution? What member of this House can say, with certainty, that he has, on all occasions, construed the constitution correctly? And who among us would be satisfied to stake all his hopes and prospects on the issue of an investigation, which, disregarding all respect for the purity of the motive, should seek only to discover an inadvertent error, resulting from a defect of judgment in the attainment of objects identified with the best interests of the nation? Sir, if I mistake not, the honorable Speaker, and several other gentlemen, who have manifested great solicitude, and displayed a torrent of eloquence to urge the expediency of passing the proposed censure on the conduct of General Jackson, and who unhesitatingly admit the innocence of his intentions, would be placed in an unpleasant situation by the operation of the rule which they are anxious to prescribe in this case. A few short years past, these honorable gentlemen were the champions who resisted the renewal of the charter of the old Bank of the United States. At that day they held the original act of incorporation to be a usurpation of power, not delegated to Congress by the constitution, and to their exertions we were indebted for the downfall of that institution. The same distinguished members, at a subsequent period, acting under the high obligations of duty, and the solemnity of their oaths to support the Constitution of the United States, aided and assisted in establishing the mammoth bank, which now threatens to sweep with the besom of destruction every other moneyed institution in the nation into the gulf of ruin and bankruptcy. It will not be pretended that both these opposite opinions were correct; and yet I should be very sorry either to impugn the motives which actuated those gentlemen in the instances referred to, or to pass a censure on their conduct for an unintentional violation of the constitution, calculated to withdraw from them the confidence of their constituents. There was a time, Mr. Chairman, when the Republican phalanx in every quarter of the Union regarded the specification of powers in the constitution as the limitation of the grant, within which every department ought to be strictly confined. But at this day we are told, that this literal construction of the instrument is too narrow for the expanded views of an American statesman—mere "water gruel," insipid to the palate, and requiring the addition of a little fuel to give it energy and action to conduct this nation to the high destinies which await it. No power can be called for by an existing exigency, or a favorite system of policy, which, according to the doctrines now advanced, may not be found necessary and proper to carry into effect some one of the specified powers in the constitution. The flexible character of man, and the frailty of human nature, afford an ample apology for these oscillations, and wretched indeed would be our situation if crime consisted in error, unaccompanied by the pre-existing will to perpetuate it. No man who respects his feelings or his character would accept a public trust on such conditions. As well might we censure the Supreme Court for having given a decision which we deemed contrary to the constitution, and where no corruption could be alleged against the judges who pronounced it; which is an essential ingredient to constitute an offence for which a judicial officer is liable to impeachment. In such a case our censure might be retorted by an attachment for contempt, and the honorable Speaker, representing the majesty of the House, would be compelled to answer the charge by purgation, or otherwise, as the wisdom of the House should direct. I mention this to show the absurdity and inefficiency of every attempt to transcend the powers secured to us by the constitution. Sir, I am sick to loathing of this incongruous, novel, and

impotent effort to wound the sensibility of a hero, who has sacrificed whatever of health or fortune he possessed, and staked his life in common with the soldier by whose side he fought, that our exposed and unprotected frontier might once more repose in peace and tranquillity, undisturbed by the midnight yell of the merciless savage.

The hero of New Orleans wanted not a petty Indian war to satiate his ambition, or add fresh laurels to the wreath already bequeathed to him by his country. It was a war of hardships, fatigues, and privations, in which for himself he had nothing to hope but the consolation of having accomplished the object for which he took the field, and of receiving the approbation of the President, to whom alone he was responsible for all the incidents of the campaign in which he participated. Of this reward, so well merited, and so freely bestowed, we now seek to rob him, by fulminating resolutions and vindictive eloquence, against what honorable gentlemen are pleased to call a patriotic unintentional violation of the constitution.

I aver, without the fear of contradiction, that the United States have, on all occasions, without a single exception to the contrary, acted on the defensive in the commencement of every war with our Indian neighbors; that they have never turned a deaf ear to the voice of conciliation; and we have abundant evidence that the late Seminole war was of a character similar, in all respects, to those which preceded it. The finger of British intrigue, and of Spanish duplicity and connivance, are visible from the very inception of these hostilities to their final termination. I will not detain the committee by entering into a methodical and critical examination of the documents, in the hands of every gentleman; showing the means employed to excite this war, the preparations made for its prosecution, and the guarantee of ultimate aid from the British Government to recover the lands for which the outlawed Creeks contended. They are voluminous and multifarious; many of them official, and all leading to the unavoidable conclusion, that nothing short of a restoration of these lands, upon the most humiliating terms, could avert the impending blow. I will endeavor to present a summary of the prominent occurrences, on which I may safely rest the vindication of this Government against the charge of aggression. The occupation of a strong military post on the Appalachicola, the asylum of fugitive slaves, of vagabonds, and banditti, of hostile Indians, and of all who would enlist under the English jack, or the bloody flag, is the first certain indication of the approaching rupture. It was the nucleus from which all the subsequent proceedings generated and matured. The Government of Spain tacitly acquiesced in this open violation of its neutral territory. Not even the redoubtable Don Jose Mazot was heard to complain, except for the seduction and employment of negroes belonging to Spanish subjects, in this tri-colored collection of outlaws and murderers. The demands made on the United States, as the sole condition on which peace could be preserved, and the objects contemplated in the erection of this Negro fort, are specifically announced by that prince of scoundrels, Colonel Edward Nicholls, in his several letters to Colonel Hawkins, then the Creek agent. This fellow sometimes styles himself "commander of the British forces in the Floridas," and at others "commander of His Britannic Majesty's forces in the Creek nation." And on one of his communications is endorsed "on His Britannic Majesty's service!" What forces had Great Britain in the Floridas, or in the Creek nation? At peace with Spain and the United States, by what authority could that Government station a military force within the territories of either? These extraordinary transactions, it is true, have been verbally disavowed, but they have never been explained in the manner called for by their mischievous tendency, and necessary to exempt the British Ministry from the well-grounded suspicion of a participation in them. On the 28th of April, 1815, Nicholls informed Colonel Hawkins that the chiefs had come to a determination "not to permit the least intercourse between their people and those of the United States. They have, in consequence, (said he,) ordered them to cease all communication, either directly or indirectly, with the territory or citizens of the United States." They further warned the citizens of the United States from entering the territory or communicating, directly or indirectly, with the Creek people; and they describe their territory to be as it stood in the year 1811. They add their adhesion to the Treaty of Ghent, as an independent ally of His Britannic Majesty. If a doubt exists as to the intent and meaning of this insolent letter, which was itself sufficient cause for hostile operations on our part, it is fully removed by a subsequent letter from the same individual, "commanding His Britannic Majesty's forces in the Creek nation," dated at the British post on the Appalachicola River, May 12th, 1815. He says, "I have ordered them (the Indians) to stand on the defensive, and have sent them a large supply of arms and ammunition, and told them to put to death, without mercy, any one molesting them." Again: "They have given their consent to await your answer before they take revenge; but, sir, they are impatient for it, and well armed, as the whole nation now is, and stored with ammunition and provisions, having a stronghold to retire upon in case of a superior force appearing." He likewise threatens the "good and innocent citizens on the frontier," and admonishes our agent "that they do not find that our citizens are evacuating their lands according to the ninth article of the Treaty of Ghent." After this undisguised exposition of their *sine qua non*, their means of annoyance, their security from attack by a superior force in the "stronghold," which the sagacity of their

leader had provided, and their impudent threat of war and vengeance against "the good and innocent citizens on the frontier," what man, whose mind is free from the despotic sway of prejudice, can hesitate as to the settled determination of these Indians, to commence hostilities on the United States, whenever they should be ordered to strike by their good friend Colonel Nicholls? To ascertain with certainty how far they might depend on British protection, Nicholls and Hillishajo proceeded to London, with the famous address of all the chiefs to their good father, King George. This paper, of which Colonel Nicholls is both the hero and the author, breathes the same spirit of enmity to this country, which runs through the whole of his letters and correspondence. In order to recommend themselves to the favor of the king, they assure him that they "have fought and bled for him against the Americans; that they will truly keep the talks which his chief has given them, if he will be graciously pleased to continue his protection; that they are determined to cease having any communication with the Americans, and warn them to keep out of their nation." These talks, which they gave a pledge truly to keep, were to "put to death, without mercy, every American who should be found on the lands ceded by the Treaty of Fort Jackson." The deputation was received with every mark of politeness and attention. Hillishajo was honored by the Prince Regent with the rank of Brigadier General in His Majesty's service, and presented with a splendid suit of British uniform, together with a rifle, tomahawk, and scalping-knife, of British manufacture, with the royal arms engraven upon each of them. These circumstances attracted the attention of Mr. Adams, our Minister there, and several notes were addressed by him to Earl Bathurst and Lord Castlereagh, on the subject of the unwarrantable proceedings of Nicholls, in Florida, and of the address before noticed, which was called a treaty offensive and defensive. To these notes, no written reply was furnished; they carefully avoided a correspondence, in writing, relative to these transactions; and Lord Bathurst, when pressed by our Minister in a conversation, observed, "to tell you the truth, Colonel Nicholls is, I believe, a man of activity and spirit, but a very wild fellow." He sent him word that he had no authority to make a treaty offensive and defensive with these Indians, and that the Government would not make any such treaty. He declined seeing him on that project, but expressed his intention of having an interview with him on the affairs of Florida, generally. This guarded course of conduct, combined with subsequent events, go far to strengthen the belief that the proceedings of Nicholls on all the other points were not disapproved, although they could not receive the open approbation of the British Cabinet. That war was to be made on the United States by the Indians in Florida, and their white and black allies, is a fact established by such a crowd of testimony, that it would be difficult to select that which would be deemed most conclusive and satisfactory. I will select only one deposition, which is so well supported, and affords such precise information, that I beg leave to read it to the committee:

"*The deposition of Samuel Jervais.*

"Samuel Jervais being duly sworn, states, that he has been a sergeant of marines in the British service for thirteen years past; that, about a month ago, he left Appalachicola, where he had been stationed for several months; that the English Colonel, Nicholls, had promised the hostile Indians, at that place, a supply of arms and ammunition, a large quantity of which had been delivered to them a few days before his departure, and after the news of a peace between England and the United States being confirmed, had reached Appalachicola; that, among the articles delivered, were, of cannon four 12-pounders, one howitzer, and two cohorns, about three thousand stand of small arms, and near three thousand barrels of powder and ball; that the British left with the Indians between three and four hundred negroes, taken from the United States, principally from Louisiana; that the arms and ammunition were for the use of the Indians and negroes, for the purposes, as it was understood, of war with the United States; that the Indians were assured by the British commander that, according to the Treaty of Ghent, all the lands ceded by the Creeks in treaty with General Jackson, were to be restored; otherwise the Indians must fight for those lands, and that the British would, in a short time, assist them.

his
"SAML. ⋈ JERVAIS.
mark.

"Sworn and subscribed to before me, this 9th May, 1815, at the town of Mobile.

"L. JUDSON, *J. P.*"

The evidence of this man is substantially sustained by Lieutenant Loomis, who so gallantly commanded the expedition which blew up the Negro Fort, and with it all the miserable miscreants who had sought refuge within its walls. Besides the letter of Lieutenant Loomis to Commodore Patterson, I am authorized by a naval officer of high respectability, to state that, at the time this fort was destroyed, there were in it eight hundred barrels of powder; three thousand stand of British muskets, packed in cases; equipments complete for five hundred dragoons; pistols, cutlasses, and carbines; four twenty-four pounders, taken from the British Frigate Cydnus, with the name of that ship on them; one field-piece, mounted; and two five-and-a-half inch brass howitzers. Such were the preparations made for the war, which was suspended only for the arrival of the red chief Hillishajo, and his companion Colonel Nicholls. The destruction of this "stronghold," on which the Indians might retire in case of discomfiture, and of the arms and ammunition which had been deposited there, induced Nicholls to procrastinate his return to Florida, and to appoint as his successor in the good work which he had begun, Alexander Arbuthnot, of

the island of New Providence. This man made his appearance in Florida, in the character of an English trader, in the year 1817, and simultaneously the war-whoop resounded through the forests, and the blood of our citizens began to flow on the borders of Georgia and the Alabama territory. I shall presently take a closer view of the means resorted to by this infernal missionary to kindle the flame of war and vengeance among the deluded Seminoles and Red Sticks. It is enough on this part of the argument to show that they were successful, and that actual violence was committed on the "good and peaceable inhabitants of the frontier," in conformity with the menace of his predecessor, Nicholls; and that the United States were compelled to take up arms and chastise the savages, in their own defence, after repeated efforts to bring them to a sense of justice and of their own interests, by friendly talks and pacific remonstrances.

Need I ransack the documents on our files, to collect the evidence of the murders and robberies which preceded the determination of this Government to commence offensive operations against the Indians in Florida? They must be fresh in the recollection of every gentleman. They have been so often repeated by my honorable friends, that I will forbear the painful task of recounting them. The cruel massacre of aged mothers and helpless infancy were spread along the whole line of our Southern frontier in that quarter. The threatened war soon ripened into full maturity. The murders committed on our unoffending citizens were openly avowed, and justified under the hollow and unfounded pretence of retaliation for similar outrages alleged to have been practised by the Georgians on their people. As early as the 5th of February, 1817, the Governor of Georgia made a solemn appeal to the General Government, for the protection of the exposed settlements within the limits of the State over which he presided. He details circumstances calculated to leave no doubt of the hostile spirit of the savages, and of the active preparations which were making by Woodbine and Nicholls to carry their hellish designs into execution. Scenes of cruelty, at the recital of which humanity shudders, followed in succession; and still the Executive paused, and demanded the punishment only of the offenders. On the 24th of February, 1817, fifteen Indian warriors entered the peaceful dwelling of the unfortunate Garret, a citizen of Wayne county, in Georgia; finding in it only Mrs. Garret and her two infant children, the eldest of whom was three years old, and the other in its mother's arms, on whom she had bestowed her tender smiles and caresses for the short period of two months. The helpless condition of this family, their natural protector being absent, innocent and unoffending, alike incapable of inflicting or repelling injury and insult, surrounded by a band of armed ruffians, exhibited a picture of human misery and heart-rending distress, which might well have tamed the ferocity of the most bloody monster who ever trod the face of the habitable globe. But their cries and entreaties were unavailing: the unhappy mother was twice shot through the body, stabbed, and scalped; her two babes murdered; her house robbed of all the valuables which it contained; and, to complete the melancholy catastrophe, the lighted torch was applied to the building, where once they enjoyed the sweets of domestic comforts, and where now their mangled and lifeless forms lay prostrate, covered with the warm blood yet streaming from their hearts; and the flames which ascended to heaven, wafted their spirits into the presence of a just God, while, amidst the devouring element, their ashes mingled in one common grave! The mind which can contemplate with calm composure deeds of cruelty and barbarity like these, must be destitute of that refined sensibility which ennobles and dignifies our nature in all the social relations of life.

This act alone, independent of the black list which both preceeded and followed it, was open, unqualified war on the United States, unless the criminal perpetrators of these crimes, whose enormity resembles more the tales of fiction and romance, than the narrative of real unsophisticated truths, should receive the prompt and condign punishment which they so justly merited. General Gaines, in obedience to instructions, demanded the murderers, and admonished the chiefs and warriors of the consequences which would result from a refusal to comply with his demand. It was not only refused, but fresh outrages of a similar character were repeated, until the seizure and indiscriminate massacre of a boat's crew, under the command of Lieutenant Scott, put an end to all hope of conciliation, and the Secretary of War, by the direction of the President, ordered the commanding General to cross the Florida line, and terminate speedily this war, "with exemplary punishment for hostilities so unprovoked." The honor of the United States required that every drop of innocent blood which had been so wantonly shed, should be washed out by the most ample atonement; and, to effect this object, General Jackson was directed to assume the immediate command of the forces in that quarter of the southern division.

I trust, sir, I have said enough to satisfy the committee, that, on our part, the war was strictly defensive, entered into reluctantly, after every reasonable expedient to avoid it had been resorted to in vain.

Yes, sir, the territory of Florida is emphatically a country "open to all comers." The British found a hearty welcome there during the late war. The outlawed Creeks received the right hand of fellowship from Governor Mazot, and his retinue of official dignitaries; fugitive negroes and banditti are welcome guests, when associated in arms against the United States; and I am persuaded the devil

himself would have received *holy orders*, had he made his appearance at Pensacola in the character of a foe to this country. We alone were excluded from the high privilege of meeting our enemies on that soil which was prostituted to every purpose which could in any manner subserve their views, and contribute to our annoyance. The fortress of Barancas was peaceably put into the possession of a British and Indian force, in our recent conflict with Great Britain. The negro fort was erected on the Appalachicola, with the avowed intention of war with the United States. The vilest reptiles in creation were collected to carry the nefarious projects of the incendiary Nicholls into execution, and not a murmur was heard, either from Pizarro or Mazot, or the Governor General of Havana. But the moment we send a force to suppress these hostile combinations, Spanish sensibility breaks through the cloud by which it had been concealed. Protests and manifestoes proclaim to the world the wrongs committed by this Government, in the violation of the territorial sovereignty of the adored Ferdinand. With a full knowledge of this fraudulent neutrality on the part of Spain, and of our rights as a nation, to the means of self-preservation, the President would have been unmindful of the high trust and confidence reposed in him, had he not ordered the army into Florida, to terminate the war, with "exemplary punishment for hostilities so unprovoked." The occupation of the posts of St. Marks and Pensacola, and the fortress of Barancas, was a necessary means of accomplishing the end for which General Jackson entered the Spanish territory. They rest on the same general principles, and, if a distinction is taken which would justify the one and condemn the other, it must be founded on a diversity of facts, in reference to the facilities and privileges granted by the authorities of Spain to the other belligerent. For there is a universal rule, to which there is an exception, that whatever a neutral power grants or refuses to one of the parties at war, she must in like manner grant or refuse to the other; and, if she departs from this strict line of impartiality, by favoring either to the injury of the other, the injured nation may do herself justice, and take *by force* what is unjustly denied to her.

Such is the law by which the conduct of all civilized nations is regulated and governed. It remains only for me to glance at the most prominent points in the evidence to show its application, and thereby rescue General Jackson from the imputation of having snatched from Congress the power delegated in the constitution to "declare war." I ask then, sir, did the Governors of St. Marks and Pensacola allow the Indians and negroes free access into their fortifications, and supply them with arms and ammunition to carry on the war in which they were engaged with the United States. To establish these facts, with regard to the former, I am perplexed with the difficulty of selecting that part of the testimony which might be deemed least susceptible of doubt or equivocation. The whole volume is full of details showing the abominable duplicity and perfidy of the treacherous Luengo. St. Marks was the council-house of the Indians, in which all their plans of operation were discussed, in concert with the commandant and his friend, Arbuthnot, between whom there existed the most perfect cordiality. St. Marks was, in all respects, *substituted* for the negro fort, which had been destroyed by the gunboats under the command of Lieutenant Loomis. To that place they retreated, immediately after this disaster befell them, and ever since they have made it the depot of plundered property, known to be so by Luengo himself, who even made contracts with the depredators for the beef, cattle, and other property which they might capture from the people of Georgia. Having been charged, by General Jackson, with conduct so contrary to the pacific relations existing between Spain and the United States, Luengo, in his defence, written at Pensacola, on the 18th of May, 1818, more than one month after the occupation of the post by the American troops, when all his powers of prevarication were taxed to exculpate himself from these charges, in reply to the information which had been communicated to the commanding General, that he had supplied the Indians and negroes with munitions of war, states: "I thought that I had convinced him of the contrary in my answer, in which I represented to him, that no one could better remove from his mind any unfavorable impression on this point than Mr. William Hambly, who, during his stay here, repeatedly interpreted to me the anxiety of the chiefs to obtain such supplies, and that he could also inform him that I uniformly counselled them to avoid the destruction which has overtaken them, and which I foresaw from the first." Now, sir, what is the evidence of Mr. Hambly, whose credibility is admitted by the Spanish commandant, and whose situation enabled him to give a full and precise statement of facts? The letter addressed by him, together with Edward Doyle, to General Jackson, exposes the transactions of St. Marks in so clear a light, that I beg leave to read it to the committee:

"*William Hambly and E. Doyle to General Jackson.*

FORT GADSDEN, *May* 2, 1818.

"SIR: We beg leave to submit to you the following facts. On the 13th December, 1817, we were violently torn from our settlement, on the Appalachicola River, by a number of Indians, headed by Chenubby, a chief of the Fowl-Town tribe, carried to Mickasuky, and delivered to Kenagee, King of the Mickasukians. Kenagee carried us to the Negro Towns, on the Suwanee, and thence to the Spanish fort St. Marks; to the commandant of which he delivered us as prisoners of war, captured under the orders of a Mr. Arbuthnot, reported to us as a British agent. At St. Marks we were treated as prisoners, and not permitted to wander beyond the walls of the garrison. While at that post, the ingress and egress

of Indians hostile to the United States was unrestrained; and several councils were held; at one of which Kenagee, king of the Mickasukians; Francis or Hillis Hajo; Hemathlemico, the chief of the Autosses; and the chief of Kolemies, all of the old Red Stick party; and Jack Mealy, chief of the Ochewas, were present. When it was reported that these chiefs, and their warriors, were entering Fort St. Marks for the purpose of holding a council, Hambly represented to the commandant the impropriety of permitting such proceedings within the walls of a Spanish fortress, the officer of which was bound to preserve and enforce the treaties existing between the King of Spain and the United States; he replied to Hambly with some degree of warmth, observing that it was not in his power to prevent it. On the Indians coming into the fort, at their request we were confined. The council was held in the commandant's quarters. He, the commandant, was present, but strictly forbade the intrusion of any of the officers of the garrison. The Indians were in the habit of driving to Fort St. Marks, and disposing of cattle to the commandant and other Spanish officers. While at that post, three or four droves were brought in, acknowledged by the Indians to have been stolen from the citizens of the United States, and purchased by the Spanish officers. We were present at most of these contracts, and Hambly often referred to as an interpreter between the purchaser and seller. Chenubby, a Fowl-Town Indian, once applied to Hambly to mention to the commandant that he was about visiting the frontiers of Georgia, on a plundering expedition, and wished to know whether he would purchase the cattle brought in. A contract was entered into, and Chenubby, some time after, brought in, and disposed of, eleven head of cattle to the Spanish commandant of Fort St. Marks. These same cattle were those purchased by you, from the commandant, as his private property.

"WILLIAM HAMBLY,
"EDWARD DOYLE."

In support of the statement made by these men, I might refer to many others in the volume of documents which have been printed, on this subject. I will, however, dispense with a detailed view of them, and barely add an extract from a letter of Lieutenant Gadsden, whose reputation as a soldier and man of honor and veracity, places him above the reach of suspicion.

"*J. Gadsden to General Jackson.*

"FORT GADSDEN, *May* 3, 1818.

"SIR: In conversation with the commandant of Fort St. Marks, on the subject of having that work occupied by an American garrison, I had occasion to notice the aid and comfort that the hostile party of Indians had received, as reported, from him; that they had free access within the walls of his fort, and that it was well known no small supplies of ammunition had been received from that quarter. In reply, he stated that his conduct had been governed by policy; the defenceless state of his work, and the weakness of his garrison, compelled him to conciliate the friendship of the Indians, to supply their wants, and to grant what he had not the power to deny, and to throw open, with apparent willingness, the gates of his fortress, lest they should be forced by violence; that he had been repeatedly threatened by Indians and negroes, and that his security depended upon exhibiting an external friendship. Respectfully, yours, &c.

"JAMES GADSDEN, *Aide-de-Camp.*"

From the testimony of these respectable witnesses, and many others to whom I think it unnecessary to refer, it is evident that the enemy had the unlimited use of this fort for all the purposes of war; that their stolen property was received, and contracted for by the commandant, knowing it to be such; and that they were supplied with arms and ammunition, and every other material, to enable them to continue their aggressions on the unprotected inhabitants of Georgia and the Alabama Territory. The only apology offered by the commandant for his unfriendly and unwarrantable conduct was, that he had been repeatedly threatened by the Indians and negroes, and that his security depended upon exhibiting an external friendship. It is immaterial whether we take the facts or the excuse, for either, unconnected with the other, will amount to a justification of General Jackson in taking forcible possession of that post. "To conduct prisoners, or convey stores, to a place of safety, are acts of war, consequently not to be done in a neutral country, and whoever would permit them would depart from the line of neutrality by favoring one of the parties." Again, "necessity may even authorize the temporary seizure of a neutral town, and putting a garrison therein with a view to cover ourselves from the enemy, or to prevent the execution of his designs against that town."—*Vattel*, 342–'4. The truth is, that our enemy was denied nothing which he asked, and we were refused the humble privilege of putting the place in a state of defence against an enemy who ought to have been considered common to Spain and the United States. In such a case, to have hesitated would have been pusillanimous and disgraceful in the commanding General. Passing from St. Marks to Pensacola, there is no substantial change either of principle or fact. General Jackson, it is true, at the date of his letter to the Secretary of War, from St. Marks, thought the war at an end. His health having been much impaired by the hardships and fatigues of the service in which he was engaged, he had determined to return to Nashville; but subsequent information, of which we have the most authentic proof, satisfied him that he had not yet effected the object of the campaign, The Indians, deprived of their accustomed resort at St. Marks, flew to Pensacola, where they had always been received with open arms by the Governor. Expeditions were fitted out, and massacres committed, by parties of hostile Indians, going directly from that place to the Escambia and Alabama.

I will not detain the committee by a reference to the correspondence and depositions at large, furnishing, as they do, indubitable evidence of the hostile disposition of the Governor of Pensacola, and of the aid given by him to the sav-

ages, for the express purpose of committing murders on the people of the United States. Thirty or forty witnesses, many of them subjects of His Catholic Majesty in Florida, and long resident there, testify to these facts. Provisions, arms, and munitions of war, were regularly issued to the Creeks and Seminoles, from the King's storehouse, during both wars in which we have been engaged with these tribes of Indians. Numerous bodies, of from two to five hundred Indians, driven from other parts of Florida, were seen in and near to Pensacola, but a few days after the approach of our army; they were armed and equipped for war by Governor Mazot. The leaden aprons were taken from the ordnance at the Barancas, and run into bullets, to obtain the necessary supply of that article. The massacre of Stokes's family, of travellers from Georgia to the Alabama, and of our frontier settlers in that quarter, may all be attributed to the free admission of the hostile Indians into Pensacola, and the assistance afforded them by the Spanish Governor. General Jackson was well informed of these circumstances, and saw in them certain indications that all his previous operations were worse than useless, if he returned without leaving an American garrison at Pensacola. He accordingly moved towards that town, after having discharged the Georgia militia, whose services were no longer necessary. He made Governor Mazot distinctly acquainted with his views, and the basis on which his conduct was founded; that he entered the territory of his Catholic Majesty, not as the enemy but as the friend of Spain, to inflict merited punishment on the common disturber of the peace of both countries; that he meant nothing more than to place an American force in Pensacola and the Barancas, which should be sufficient to guarantee the security of the United States from a protracted savage war. He never intimated an intention of disturbing either the civil or military authorities of Spain. In return, Governor Mazot protested against the entrance of the American commander into his territory, for any purpose; ordered him, in the name of the King, to depart forthwith, and threatened to repel force by force, if he persisted in his intentions. The well-known valor and intrepidity of General Jackson took fire at his insulting menace; he would have preferred an honorable grave, under the walls of the Spanish fort, to a cowardly, disgraceful retrograde, under the gasconading threat of this impotent instrument of a monarch, whose very name excites the smile of contempt throughout the civilized world. He moved directly to the town of Pensacola, and mark, I beseech you, sir, the conduct of Governor Mazot. The Indian warriors who were with him, and their families, were shipped in public vessels across the bay to the Island of Santa Rosa. He retired before the American army, who really intended to do him no violence, into the fortress of San Carlos de Barancas, where he permitted himself to tremble and equivocate for a day or two, and then, by his own request, the fort was delivered into the hands of General Jackson, and the Spanish troops, with this magnanimous Governor at their head, were transported to the Island of Cuba. We are told by honorable gentlemen, that this last measure gave to the transaction all the pomp and circumstance of war. That the Spanish troops were made prisoners of war, and forced to quit the country in which they were stationed under the protection of their sovereign. There would indeed be some plausibility in the conclusion, if the premises assumed were not destitute of foundation. Every proposal relating to the surrender of the fort came from Governor Mazot; it was by his own desire that vessels were provided for the transportation of the garrison, and the officers attached to the civil administration, and of the Alabama Chief Hopayhoal, and family, to the Havana. It was his own puerile resistance which gave to this affair the aspect of a capitulation. General Jackson never contemplated an act of hostility against Spain; his sole object was to give peace and security to his own country, and to guard against the renewal of hostilities by prohibiting the customary supplies which the Seminoles and Red Sticks received from this faithless, unprincipled Governor.

Mr. P. continued. Sir, said he, I have been mortified and disgusted at the sickly agonies and sympathetic effusions which have been so often repeated by honorable members on the subject of the trial and execution of the instigators of the Seminole war, Arbuthnot and Ambrister. Inflated appeals to our humanity and magnanimity have rung through this hall to excite our commiseration for these guilty men. They have failed to reach either my judgment or the feelings of my heart. My sympathies, thank God, are reserved for the bleeding and suffering citizens of my own country; and objects of that description, in abundance, are exhibited to our view in the narrative of events connected with the short but bloody career of these foreign incendiaries in Florida. The punishment inflicted on them was more than merited by the enormity of their crimes; the example, I trust, will be a salutary warning to British agents on the whole extent of our Indian frontier; and, if future outrages of the same kind should be practised, we owe it to the safety and honor of our country to retaliate on the offenders with the utmost rigor and severity, until the subjects of foreign nations shall be taught to dread our vengeance, if they do not respect our rights. Sir, it is not my intention to enter into a detailed argument on the various technical objections which have been resorted to by gentlemen skilled in the nicety of special pleading, to show that a count or an inuendo is wanting in the declaration, or that judgment has not been pronounced according to the forms in such case made and provided. Such trash may serve to supply the vacuum of empty declamation, but I can never consent to convert this great political theatre into a court

of errors and appeals, sitting to scan the record and regulate the proceedings of inferior tribunals. My views are directed to measures in reference to their operation on the general welfare of my country, and, whenever that effect is produced, I would not retrace the step, unless the honor of the nation imperiously demanded the sacrifice. The proceedings of the special court convened by General Jackson on this occasion, have been fully and ably defended by honorable gentlemen whose profound knowledge of military science and the practical usages of war gives to their opinions and arguments the weight of authority, and supersedes the necessity of further investigation. If, indeed, errors in point of form were committed by the court, or if they misunderstood the powers vested in them by the order of the commanding General, it does not become the dignity of this House to ascribe these irregularities to General Jackson; it is to the general order we must look for a definition of the duties which the court were required to perform. They were instructed to "record the documents and testimony in the several cases, and their opinion as to the guilt or innocence of the prisoners, and what punishment, if any, should be inflicted." Call it, therefore, a court-martial, or by whatever other name you please, these were the powers conveyed to it, and no assumed title could enlarge the grant or substantially change its character. The opinion of the court was given in the form of a sentence and carried into execution, but the same result would have followed if there had been no departure from the literal import of the order. To cavil at such petty inaccuracies, where substantial justice has been done, is, I repeat it, unbecoming the dignity of the House of Representatives. That these perfidious miscreants met the fate which their conduct merited cannot be seriously doubted by any one. On the principle of reprisals it was lawful to execute them, and, as criminals of the highest grade, whose guilty hands involved a whole country in scenes of massacre and robbery, they fell just victims to the offended laws of nature and of nations. "Those who, without authority from their sovereign, exercise violence against an enemy and fall into that enemy's hands, have no right to expect the treatment due to prisoners of war; the enemy is justifiable in putting them to death as banditti." Again, "the violences committed by the subjects of one nation against those of another, without authority, are looked upon as robberies, and the perpetrators are excluded from the rights of lawful enemies;" and, also, "whatsoever offends the State, injures its rights, disturbs its tranquillity, or does it a prejudice, in any manner whatever, declares himself its enemy, and exposes himself to be justly punished for it." (*Vattel*, 162.) Sir, can any gentleman compare these principles of national law with the evidence in the trials of Arbuthnot and Ambrister, and seriously contend that they have suffered unjustly, and contrary to law; that they have been doomed to perish under the rod of military despotism? I frankly confess it would require a stubborn determination to persevere in error, which I do not possess, to draw conclusions so inconsistent with such premises. Some gentlemen have attempted to make a distinction between the guilt of these men. Ambrister, say they, was taken in arms; he commanded the negroes and Indians; led them into battle; was identified with them, and, therefore, deserved death. Arbuthnot, we are told, was a mere merchant, a dealer in the articles which the Indians were accustomed to purchase.

I have, in the preceding part of my remarks, had occasion to advert to the objects for which this man entered Florida, and the part which he took in exciting the Indians to war. If Nicholls was an innocent dealer in "the articles which the Indians were accustomed to purchase," so was Arbuthnot; their views were the same; they held the same language to the savages, and each gave a pledge of British aid, in case war should be waged for the recovery of the lands ceded by the Treaty of Fort Jackson. He frequently assured the chiefs that he had authority to correspond with his Majesty's Minister at Washington, with Governor Cameron, of New Providence, and the Governor General of Havana, on the subject of necessary supplies for carrying on the war; and that he was in possession of a letter from Earl Bathurst, which informed him that Mr. Bagot was instructed on that subject. On the back of a letter addressed by him to that Minister, he states the aggregate force embodied among the Indians and the positions at which they were posted, and requests a supply of arms and ammunition, specified in the following memorandum:

"A quantity of gunpowder, lead, muskets, and flints, sufficient to arm 1,000 to 2,000 men.

Muskets, 1,000; more smaller pieces, if possible.

10,000 flints; a proportion for rifle, put up separate.

50 casks gunpowder; a proportion for rifle.

2,000 knives, six to nine inch blade, good quality.

1,000 tomahawks; 100 lbs. vermilion.

2,000 lbs. lead, independent of ball for musket."

This paper speaks for itself; it cannot be misunderstood; and shows, most clearly, the participation of Arbuthnot in providing the means necessary to the prosecution of the Seminole war. He was the prime minister of the hostile Indians; had a full power of attorney to make talks, and act for them in all cases whatsoever; and if Ambrister, who was but a subordinate agent, was justly sentenced to suffer death, what excuse can be offered for the man who put the whole machinery of war, massacre, and robbery, in motion? Can it be said that he had not disturbed the tranquillity of the United States? I presume it cannot, and, of course, according to the maxims of public law, to which I have referred, he had "declared himself our enemy, and exposed himself to be justly punished." It is unnecessary for me to enlarge the

discussion on the right of the commanding General to retaliate on the enemy for the acts of cruelty and barbarity which were practised in the progress of this war. Honorable gentlemen, who controvert the right, have shown no instance in which it was denied, either in Europe or America; and, in support of it, we have the examples of Washington and many other general officers, who fought in the war of the Revolution. Yes, sir, General Jackson had the right to inflict punishment on these outlaws. I rejoice that he exercised that right; and, if we do not paralyze and destroy the good effects of the act, it will contribute, in no small degree, to the future peace and security of our frontier. But the honorable Speaker has said that we have no right to practise retaliation on the Indians; that we have foreborne to do so from the earliest settlement of the country, and that it has become the common law of the land, which we are bound not to violate. Sir, from what source does the gentleman derive the principle that a right, inherent in the nature of man, which he inhales with his first breath—which "grows with his growth and strengthens with his strength"—which has the fiat of God for its sanction, and is incorporated in the code of all the nations of the earth, becomes extinct with regard to those who may forbear to exercise it, from motives of policy or humanity, for any number of years? That a common law is thereby entailed on the American people, to the latest generations, by which they are required to bend beneath the tomahawk and scalping-knife of the savage, and submit to every cruelty and enormity, without the privilege of retaliating on the enemy the wrongs and injuries we have suffered by his wanton transgression of the rules of civilized warfare? We have, it is true, tolerated much of the inhuman conduct of the aborigines towards our frontier inhabitants. We have endeavored to teach them, by examples of humanity and magnanimity, the blessings and advantages of civilization; but instances are not wanting of the most severe retaliation on these monsters for their deeds of barbarity. If, however, there was not a solitary case on record, of the exercise of the right, it remains inviolate and inviolable. No community has the power to relinquish it and bind posterity in the chains of slavish non-resistance. The gentleman's common law will not do for the freemen of the United States; it is unique and absurd. Sir, if the committee will pardon the digression, this novel idea of common law reminds me of an occurrence which is said to have happened in the early period of the settlement of the present polite and flourishing State of Kentucky: A man, in personal combat, deprived his antagonist of the sight of an eye by a practice familiar at that day, called *gouging;* the offender was prosecuted and indicted for the outrage; he employed counsel to defend him, to whom he confessed the fact. Well, sir, said the lawyer, what shall I say in your defence? Why, sir, said he, tell them it is the custom of the country! And I presume if the honorable Speaker had presided on the trial, he would have said, "Gentlemen of the jury, it is the common law of Kentucky, and you will find a verdict for the defendant." But, sir, to be serious, let me bring the case home to the honorable Speaker himself. Suppose a band of these barbarians, stimulated and excited by some British incendiary, should, at the hour of midnight, when all nature is wrapt in darkness and repose, sound the infernal yell, and enter the dwelling of that honorable gentleman, and in his presence pierce to the heart the wife of his bosom and the beloved and tender infant in her arms—objects so dear to a husband and a father—would he calmly fold his arms and say, well, 'tis hard! but it is the common law of the country, and I must submit! No, sir; his manly spirit would burn with indignant rage, and never slumber till the hand of retributive justice had avenged his wrongs.

"Mercy to him who shows it, is the rule,
And righteous limitation of the act,
By which Heaven moves in pardoning guilty man;
And he that shows none, being ripe in years,
And conscious of the outrage he commits,
Shall seek it, and not find it, in his turn."

I have no compassion for such monsters as Arbuthnot and Ambrister; their own country is ashamed to complain of their fate; the British Minister here has disavowed their conduct and abandoned their cause; and we, sir, are the residuary legatees of all the grief and sorrow felt on the face of the globe, for these two fallen murderers and robbers! For I call him a murderer who incites to murder.

Mr. Chairman, I am not the eulogist of any man; I shall not attempt the panegyric of General Jackson; but if a grateful country might be allowed to speak of his merits—

Louisiana would say, "You have defended our capital against the veteran troops of the enemy, by whom it would have been sacked, and our dwellings enveloped in flames over the heads of our beloved families."

Georgia: "You have given peace to our defenceless frontier, and chastised our ferocious savage foe, and the perfidious incendiaries and felons by whom they were excited and counselled to the perpetration of their cruel deeds. You have opened additional territory to our rich and growing population, which they may now enjoy in peace and tranquillity."

Alabama and Mississippi: "You have protected us in the time of our infancy, and in the moment of great national peril, against the inexorable Red Sticks and their allies; you have compelled them to relinquish the possession of our lands, and ere long we shall strengthen into full manhood, under the smiles of a beneficent Providence."

The whole Western Country: "You have preserved the great emporium of our vast commerce from the grasp of a powerful enemy; you have maintained for our use the free navigation

of the Mississippi, at the hazard of your life, health, and fortune."

The Nation at large: "You have given glory and renown to the arms of your country throughout the civilized world, and have taught the tyrants of the earth the salutary lesson, that, in the defence of their soil and independence, freemen are invincible."

History will transmit these truths to generations yet unborn, and should the propositions on your table be adopted, we, the Representatives of the people, subjoin: "Yes, most noble and valorous Captain, you have achieved all this for your country; we bow down under the weight of the obligations which we owe you, and as some small testimonial of your claim to the confidence and consideration of your fellow-citizens, we, in their name, present you the following resolutions:

"*Resolved*, That you, Major General Andrew Jackson, have violated the constitution which you have sworn to support, and disobeyed the orders of your superior, the Commander-in-chief of the Army and Navy of the United States.

"*Resolved*, That you, Major General Andrew Jackson, have violated the laws of your country and the sacred principles of humanity, and thereby prostrated the national character, in the trial and execution of Alexander Arbuthnot and Robert C. Ambrister, for the trifling and unimportant crime of exciting the savages to murder the defenceless citizens of the United States.

"Accept, we pray you, sir, of these resolves; go down to your grave in sorrow, and congratulate yourself that you have not served this great Republic in vain!"

Greece had her Miltiades, Rome her Bellisarius, Carthage her Hannibal, and "may we, Mr. Chairman, profit by the example!" Sir, if honorable gentlemen are so extremely solicitous to record their opinions of this distinguished General, let us erect a tablet in the centre of our Capitol square: let his bust designate the purpose: thither let each man repair, and engrave the feelings of his heart. And, sir, whatever may be the opinions of others, for one I should not hesitate to say, in the language of the sage of Monticello, "*Honor and gratitude to him who has filled the measure of his country's glory!*"

WEDNESDAY, February 3.

Seminole War.

The House then again resolved itself into a Committee of the Whole, (Mr. SMITH, of Maryland, in the chair,) on the subject of the Seminole war.

Mr. WALKER, of Kentucky, rose and said: Mr. Chairman, I do not rise to enter into a discussion upon a subject that has called forth the wisdom, learning, and eloquence of this committee; I only wish to express my reasons for the vote which I am about to give upon this question, and to show that I have no fears for any future consequences which may arise from that vote to my country.

If it were possible for me to be persuaded that the friends to the mode of prosecuting and terminating the Seminolian war were less solicitous for the honor and dignity of our country, or less anxious for its future prosperity and happiness, than those gentlemen who disapprove of our General's conduct in that war, from the solemn dignity of the manner, from the deservedly high standing of the man, and the immense importance Mr. Speaker has attached to the matter, I might be persuaded that I was in error, and might give a different vote on the subject; I might be convinced that I was as far beneath him in common sense and mere love of country, as he is above me in elevation of station, or in the omnipotent powers of eloquence. But, sir, there are some subjects on which good common sense, years of experience and observation, may shed as clear a light as all the pages of ancient or modern history, and may so anchor the judgment that learning, eloquence, and acknowledged merit, all combined, cannot weigh the anchor, or drag it from its moorings; and this, sir, in my poor opinion, is one of those deep-rooted subjects. I will not attempt to speak of Grotius, Puffendorff, Vattel, Martens, or any other writers on the law of nations, or of our own constitution, nor yet will I attempt to lead this committee to believe that I have a correct knowledge of the ancient Republics of Greece or Rome; but, from the little light I have received upon the history of those republics, I will endeavor to show that we have no cause of fear from some future Philip, Cæsar, Cromwell, or Bonaparte; we, to be sure, resemble them in some leading characteristics, and in name, but not in every thing; they knew nothing of a fair representative council, such as ours, which is certainly the chain cable of our political ship; a fair representative Government they never had an idea of, or if they had, like some of my unfortunate friends, too, in South America, they were afraid to try the experiment.* Their laws, I am told, were enacted by universal suffrage, or, more properly speaking, by that portion of the people that casualty or design might have convened at the time they were under consideration; it is, therefore, reasonable to suppose that the citizens who lived remote from the metropolitan cities had but little share in their legislation; hence one great cause of their decline. In populous countries and large cities, where the greater portion of the people are wretchedly poor, profoundly ignorant, and darkly superstitious, where the sum of their knowledge was acquired from the mouths of their public speakers, it is perfectly rational to believe that an ingenious, eloquent orator, could catch them by the ears, and a successful splendid hero could lead them to the sacrifice of all

* Mr. Clay, upon this subject, took occasion to mention his "poor friends in South America."

that should be held most dear to man; nor is it matter of astonishment to the reflecting mind, that our late republican sister, now poor bleeding France, should have followed the fate of the old republics; emerging, as she did, from the darkness of chaos, suddenly into the bright blaze of heaven-born liberty, her eyes were dazzled with the brilliance, her brain was intoxicated with the multiplicity of novel ideas that burst upon it, and before she could recover her sober senses, before her legislators could establish the plan for the permanent security of her rights, the demon of discord erected his crest and diffused his poison among her counsellors, who had also to conquer the habits of ages before her people were capable of enjoying rational liberty; the lands of the country, too, from which true independence always sprouts, were in the hands of the aristocratic few, to whom the great body of the people had, for centuries, been bound by the iron hand of necessity or of power. Thus situated, it is not wonderful that the successful hero, the ambitious, artful statesman, should have prostrated all their rights. Quite the reverse from this situation was our happy Republic at the commencement of her existence; the soil of the country was apportioned among her numerous hardy sons, whose arms were able to defend it. Religious and civil liberty was the contemplation of our European fathers when they first came to America; it was the darling theme of their sons until the day they unfurled the banner, and proclaimed to the astonished world that they were free. Free we are, and free we will be, until land monopolies shall have swallowed up the soil as the banks are about to swallow our portable treasure; we must be ground down to extreme poverty, ignorance, its concomitant, and to cap the climax, superstition, too, must give her detested aid, before we can lose our liberties. In fact, Mr. Chairman, we must be reduced to the miserable, abject state of the poor subjects of monarchs, before we can lose our liberties. If ever our rights are lost, moneyed aristocracies and land monopolies will be the corner stones on which the edifice will be erected that will sweep them all. My fears from them are, in truth, much greater than from the sound discretion in our commander in the execution of an order given him by our beloved Chief Magistrate, and which order, if not executed in the manner it was, the objects of the campaign would have been infallibly lost. Certainly, it was our President's intentions, when he gave the orders, to put our women and children at rest from the apprehension of being scalped and burnt. If General Jackson had returned from the Florida line, is there a woman in Georgia, or a child in Alabama, that does not know that Arbuthnot and Ambrister would have excited their myrmidons to the repetition of those deeds, at the thought of which the blood curdles and runs cold with horror. Much has been said, many dreadful apprehensions have been suggested, from the consequence of our full approbation of our General's conduct; for my poor part, I hope I shall never be afraid of giving to merit its due meed. From my own reading of our constitution, as well as the sound arguments I have heard, I am most perfectly convinced that the President's orders were strictly constitutional, and that their execution was perfectly reconcilable with the laws of nations, as was shown by the gentleman from Virginia, and by my friend and colleague,* and produced the most desirable effects to our distressed frontier settlers.

If General Wayne, in 1794, had had force sufficient when he defeated the Indians on the Miami of the Lakes, and had have exercised his sound discretion, as General Jackson has done, our Owens and Daviess, our Allen and Simpson, my friend Captain Lewis, and the gallant, generous Hart, might this day have been living monuments of their country's genius, greatness, and goodness, and thousands of our dear disconsolate widowed sisters would now be pressing their new-born babes to their breasts, and receiving the benign smiles of their affectionate husbands, instead of making humble application here, through their benevolent friend, my soldier colleague, (Colonel JOHNSON,) for some poor pittance wherewith to raise their fatherless children; for we should have had no war; no soldiers would have fallen. Yes, sir, if General Wayne had caught the British incendiaries that were with the Indian army, (which he could have done with the assistance of cannon,) and given them to the tree, demolished Major Campbell's fort, and in the ruins buried every British officer and soldier, he would have done a praiseworthy deed, without an infraction of the laws of nations;† the blood-stained British lion would roar, but he would not fight; the conscious murderers of our wives and dear smiling babes would have shrunk appalled when they saw their husbands, sons, and brothers, determined on just revenge.

No war would we have had; our honest, generous, and brave sailors would never have been impressed and ignominiously whipped to try to make them fight against their country's friends; nor would our merchants have been despoiled of their pelf; we would have had no war, no apprehensions of the necessity of an armed force to guard against the efforts of British intrigue, no blue lights or Hartford conventions; the table of your Committee of Claims would never have groaned under the weight of petitions for relief of officers from the pressure of heavy judgments given against them, by what is called courts of justice, too, for the faithful execution of a legal military order; and, what is more to be deplored than all, the shameful capitulation of Alexandria we never should

* Colonel Johnson, from Kentucky, by all beloved for his humane attention to our soldiers' claims and their widows' applications for pensions.

† Colonel Johnson's construction of Vattel, upon the laws of nations, is in perfect accordance with the laws of nature and of nature's God.

have heard of, nor the conflagration of our Capitol in this city, which bears the name of the illustrious WASHINGTON. Oh, Genius of History, if from thy chaste page thou would'st wipe those foul blots from our character, the laurels of the late British war, like those of the Seminole war, would forever bloom upon thy records without an adverse shade!

Mr. Chairman, until I am convinced that sound sense, some little reading, and close attention to the sound, learned, and eloquent arguments I have heard, will not qualify me to give a just opinion upon the subject, I shall be most decidedly opposed to the resolutions under discussion, and make free to say that the Military Committee has made a most unmilitary report.

Sir, until I am persuaded that I should be reprehensible in hot pursuit to follow the murderers of wife and children to the house of their accessories, on whosesoever ground it might stand, and drag them forth to instant punishment, I shall continue to thank and praise the man who has saved their lives or revenged their deaths.

Mr. Chairman, I felicitate myself, I congratulate my country, that our people better understand their rights than those of the old Republics, and have a more equal distribution of property than they had; that this honorable House is composed of, if not brighter, at least stronger materials than the legislative councils of Greece and Rome; if it was not, this day we might be led to record a vote at which the crowned heads in Europe indeed might chuckle; more cause would they have to chuckle than when they heard of Jackson's Creek treaty.* Much greater cause would our friends in Europe have of woe and bitter lamentation, to fold their desponding arms, and droop the melancholy head, than when they heard of our extinguishing the Indian title to a little slip of land.

To see us sacrifice our General, who shamefully defeated old England's chosen glorious bands, would make the Prince Regent's Ministers rejoice; to sacrifice our General would quiet the manes of the execrable Ambrister, and no doubt please Arbuthnot's honorable correspondent in this city;† to dismiss our General, who pursued the nurtured robbers of our people and murderers of our innocent children into Pensacola, would no doubt excite a grin from His Catholic Majesty's Minister near this metropolis. The sacrifice that we should make to a mistaken idea of patriotism and humanity, would be by him attributed to our fears of foreign force, for the poor soul knows nothing about the milk of human kindness that so abundantly flows in every freeman's breast. Deprived of our General, (for he thinks we have got but one,) he will again renew the Spanish claim to all the lands from the head to the mouth of the Mississippi; and if we did not forthwith surrender them, he would threaten us with the vengeance dire of his potent royal master. These, sir, will be the valuable results of our agreement with the honorable committee on military matters; this sacrifice, the honorable committee shows, will be made upon very slight presumption, that the General had, in the execution of a military order, a little exceeded a strictly literal construction. I think it conceded by all the honorable speakers upon this question, that, in their various opinions of necessity consists alone their discordant opinions upon this subject. Then, let us ask, who is the better judge of an important military movement? The gentleman at home, in peace and safety, feasting on all the luxuries of every clime, his children, like blessed seraphs, playing about him, his wife, too, sweet, soft, intelligent, all-accomplished, and beautiful too, as much as his fond wishes could have, whose humane ear was never pierced with the distant sound of the dreadful savage yell; whose charitable heart never had occasion to extend her munificent hand to the relief of woes inflicted by a barbarian band of ruthless sons of the wood, or the hardy weather-beaten General in the field, combating all the difficulties necessarily accompanying savage warfare; is that all, sir? No—subsisting himself and all his army on kind nature's spontaneous gifts, an all-important object to his country before his eye, which must be effected by a given day, or himself and army starves. Who is the best judge in such a case—the brave, aged, experienced General, at the head of the army, or the young, sweet-smelling, powdered beau of a drawing room? No doubt here. Then why not, in the name of propriety, leave to your General's own discretion the exercise of open orders, and not attempt to find fault where we cannot, from our situations, form a correct judgment of the necessities that lead to certain acts?

A word to my dear, good old mother, Virginia, and then I am done. With heartfelt pleasure did I see one of her favored sons, (Mr. TYLER,) of the younger brood, exhibit upon this occasion the true patriot soul; from his firm, expressive countenance, and bright, intelligent eye, I read the triumph of his soul, I saw that his devotion to his country had obtained a conquest over his filial affections. I thought I saw his heart weep blood when his eye said, Behold, my country, here is your Brutus; like the elder Brutus, I would condemn my own son for a breach of public law—like the younger, I would stab my father to save my country. I envy such feelings; they are almost too exalted for mortal man; yet I am sure he had them. But I implore my friend to recollect, that if there had been a hook on which to hang a doubt of the guilt of the son of the elder Brutus, that his act would have been thought most horrid. That if it was not well known that Cæsar was indeed ambitious, the younger Brutus would have com-

* Mr. Clay said, the crowned heads of Europe chuckled when they heard of Jackson's Treaty with the Creeks; and our friends folded their melancholy arms, hung the dejected head, when they found that we had acquired Indian land.

† The British Minister in Washington.

mitted a most detested crime. I hope his reflections on the subject will guard him against passing sentence against his brother, without the most incontestable proofs that his country is thereby to be relieved from most imminent danger. Let not this ardent zeal for the preservation of our constitution impel him to leap over its sacred walls, and horribly trespass upon its most valuable provisions. Is not the security of our reputation among the greatest objects of the constitution? If we condemn our General's conduct because, indeed, we cannot exactly think like him, will we not severely trespass on his feelings? You all do know what Shakspeare says about the value of a good name: "Reputation dear, my lord, is the immediate jewel of the soul," &c. Every member of this House, every lady in the gallery, and gentleman too, I hope, have read and highly approve his sentiments.

If reputation be so dear to every one among us, how high indeed must it be rated by him, whose bread, whose meat, whose life itself, hangs upon his fair won fame. I am happy, sir, to tell my friend, the honorable member from Philadelphia, that I shall never fear that the keen prying sense of squint-eyed suspicion will ever find a spider's egg among the leaves, much less a serpent, entwined about the branches of the full-grown wreath of laurels that adorns my General's brow. No, sir; Jackson's laurels can never scatter the seed that may hatch some future Tarquin, to wound the tender breast of some chaste Lucretia.

Seminole War.

The House then again resolved itself into a Committee of the Whole, (Mr. SMITH, of Maryland, in the chair,) on the subject of the Seminole war.

Mr. BALDWIN, of Penn., observed, that, in entering into the investigation of this subject, he should not inquire whether motives of feeling and compassion should induce us to palliate and excuse the conduct of General Jackson and the President, and whether it were right or wrong. If innocent blood had been shed, or the laws and constitution of the country grossly violated, neither the exalted character nor eminent services of the persons implicated ought to exempt them from the censure of this House. But, on a careful examination of all the evidence and documents submitted to us, he was fully of the opinion expressed by his friend from Kentucky, the chairman of the Military Committee, (Mr. JOHNSON,) that General Jackson, in the wilds of Florida, better understood the laws of nations, and the constitution of his country, than gentlemen in this House, who had been so long discussing the propriety of his conduct.

To come to a correct conclusion on the trial and execution of Arbuthnot and Ambrister, it would be well to inquire who they were, and their business and employment in Florida. Arbuthnot was the agent of Nicholls and Woodbine, to excite dissensions among the Indians, to make them dissatisfied with the treaty of Fort Jackson, induce them by force to reclaim the lands ceded to us by that treaty, and the British and Spanish Governments to become parties. By a special power of attorney he became the general agent of all the Indians hostile to us, and was the instigator of all their inroads upon our Southern border. He pretended to be there for trade, but this was a mere pretence. Examine his letter to Governor Cameron, "I beg leave to represent to your excellency the necessity of my again returning to the Indian nation, with the deputies from the chiefs, and as my trouble and expense can only be defrayed by permission to take goods to dispose among them, I pray your excellency will be pleased to grant such a letter or license as prevents me being captured in case of meeting any Spanish cruiser on the coast of Florida." He was not the advocate for peaceful measures; his letter to General Mitchell justifies the murders of the frontier inhabitants. Speaking of the Indians, he says, "If, in the height of their rage, they committed any excesses, you will overlook them, as the just ebullitions of an indignant spirit against an invading foe." To further ascertain his true character, and that of his agency and trade, I beg the committee to examine his letter to Mr. Bagot. The bill of goods that this humane trader and innocent and injured man ordered to be sent to him, was "2,000 knives, blades from six to nine inches in length, of a good quality—1,000 tomahawks.' This was Arbuthnot; and these facts appear from letters in *his* own handwriting.

Ambrister was a pretended patriot; the agent of McGregor and Woodbine. He came to Florida to command the runaway negroes of Georgia, slaves who had absconded from their masters, and were organized by him to return to our country, and visit it with all the horrors of a savage negro war. He came to Florida on their business, and to see them righted. According to the testimony of John J. Arbuthnot, "about the 3d of March the prisoner Ambrister came with a body of negroes, partly armed, to his father's store on Suwanee River, and told the witness that he had come to do justice to the country, by taking the goods, and distributing them among the negroes and Indians, which the witness saw the prisoner do; and that the prisoner said to him, that he had come to the country on Woodbine's business, to see the negroes righted. The witness has further known the prisoner to give orders to the negroes; and that, at his suggestion, a party was sent from Suwanee to meet the Americans, to give them battle." Peter B. Cook testified, that, "some time in March, the prisoner Ambrister took Arbuthnot's schooner, and with an armed party of negroes, twenty-four in number, set out to take Arbuthnot's goods, &c. The prisoner was sent by Woodbine to Tampa, to see about those negroes he had left there." Ambrister, in a

letter to Nicholls, says, "There is about three hundred blacks at this place, a few of our Bluff people, (alluding to the negro fort on Prospect Bluff;) they beg me to say they depend on your promises, and expect you all on the way out. They have stuck to the cause, and will always depend on the faith of you," &c. The prisoner, Ambrister, according to the testimony of Jacob Hannon, "took possession of the schooner Chance, with an armed party of negroes, and stated his intention of taking St. Marks. While the prisoner was on board, he had complete command of the negroes, who considered him as their captain."

He boasts that three hundred negroes have stuck to the cause—the cause of Indians attacking the defenceless inhabitants of our frontiers; negroes fighting against their masters; and all joining in horrid butchery and murder; Ambrister leading them in the field, Arbuthnot their agent, adviser, commissary, quarter-master, store-keeper—secure in a Spanish post, concerting all their plans, and directing all their operations.

Gentlemen may differ as to the manner in which we consider Indians, whether as a nation, or as occupants of the soil, with a qualified right of ownership; but, as to negroes, there can be but one opinion. In Georgia they are slaves, property not merely personal but political, property of the highest description, which we are bound by the constitution to protect, and to restore to their owners. These negroes could acquire no new right by absconding into Florida, and, however numerous their assemblage may be, we cannot acknowledge them as thus acquiring any national character. As between them and us they were still slaves; and their owners, the Georgia militia, who were with General Jackson, had a right to consider and treat them not as a nation entitled to the protection of the rules of civilized warfare. They were, in fact, suppressing an insurrection of slaves, aided by an Indian force, all assembled and armed for purposes hostile to the country. One white man is found at their head, fighting and leading them on; another exciting, and supplying them with the means of destruction. These men cannot complain if they are put on a footing with those with whom they thus associate. They cannot expect to raise this compound mass to their own level, but must be satisfied to sink to theirs. Arbuthnot's own opinion of himself is entitled to some weight. In his letter of 3d March, 1817, he says: "The Lower Creeks seem to wish to live peaceably, and quietly, and in good friendship with the others, but there are some designing and ill-minded persons, self-interested, who are endeavoring to create quarrels between the Upper and Lower Creek Indians, contrary to their interests, their happiness, and welfare. Such people belong to no nation, and ought not to be countenanced by any government." He did excite this war, and thus, by his own account, belongs to no nation. What then is he, but an outlaw and a pirate, placed beyond the protection of civilized society? Thus we find General Jackson and Arbuthnot agree as to him, and, as to Ambrister, I will willingly leave it to be decided whether he was less an outlaw than the runaway brigands whom he commanded.

The greater part of the hostile Indians were the Creeks, who had been outlawed by their people. To call a gregarious collection of this kind, composed of outlawed Indians and runaway negroes a nation, and give them national attributes, is idle. Neither mass was so by themselves, and their union for a common object could not change the character of the constituent parts. A better or more appropriate name could not be given to them as a mass, or as individuals, than outlaws and pirates. They were so in fact, and, whatever rights we had against any, we had against all, whether black, white, or red.

Arbuthnot was near the scene of operations, aiding and abetting, an accessory before the fact. An attempt is made to distinguish his case from Ambrister's, because he was a non-combatant. But to me it seems, that the man who, as the agent, commissary, and quarter-master, directed and planned the operations of this assemblage, and directly supplied them with the means, is as much a combatant as one who actually bore arms in the field. Thus were these men completely identified with the Indians and negroes, and, being found in this situation by General Jackson, he practised towards them not the right of retaliation, which is punishing the innocent for the guilty, but applied to them what is admitted and conceded to be the established law of nations; to treat those with whom we are at war as they treat us. Indians put their prisoners to death, and in this war they did not spare women and children; the brains of the latter were dashed out on the sides of the boat, after the massacre of Lieutenant Scott and party, and I think it can hardly be contended that we were bound to extend to these savages, to runaway slaves, or white incendiaries, the humane rules of modern civilized warfare. Their execution was only the exercise of an acknowledged right in us.

In distinguishing between the moral depravity of the ignorant Indian, who, in roasting his prisoner and murdering the mother and the infant, follows the customs of his fathers, and as he thinks, the dictates of his religion; and the white man, who, forgetting the mild customs of his nation, and deaf to the benignant dictates of the Christian religion, instigates, aids, and abets the Indian and negro to the horrid butchery of innocence, I think all must agree that the one who sins against light and knowledge is infinitely more criminal. The guilt is in the heart that plots and not the hand that executes, as was most forcibly expressed by a gentleman from Virginia. Not in the musket, but in him who directs it. If ——, who was present and assisted at the burning of the unfortunate Colo-

nel Crawford, had been taken by our troops, and executed; if, on that day, so proud and yet so fatal for Kentucky, when, after the battle of the river Raisin, there was a barbarous massacre of her captive soldiers, it had been true, as was alleged, that a British officer, high in command, abetted and connived at the murders, and he had been taken and executed, would his fate have been more lamented than that of the poor savage, whom they encouraged? In executing Arbuthnot and Ambrister, it is not charged against General Jackson that he had shed innocent blood. The facts were admitted; their guilt was established; one threw himself on the mercy of the court, the other rested his defence on the rules of evidence. The charge is, that the guilty have not been punished according to the forms of law, and that the constitution and laws of the country have been violated in their trial and execution. I think that neither have any bearing on the case of these men. They were found and executed out of the territorial limits of the United States, where our laws or constitution have no operation, except as between us and our citizens, and where none other could claim their benefit and protection. If the rights of an American citizen had been violated by an American officer, he must answer to our laws for an abuse of an authority which he derived under them. These men were not our citizens, not bound by our laws; they owed us no allegiance, and were entitled to no protection. The General claimed no power to punish them under our laws. He knew that legislation was necessarily confined to the boundary of the Sovereign; that on the ocean, where each nation has concurrent jurisdiction, or in the territory of any other where it is exclusive, our laws could not give us any power over the citizens of other Governments, or within their boundaries. All that we could claim or exercise, in either case, is by the laws and usages of nations. Our legislation cannot extend or annul this code. We may, indeed, prescribe the mode in which our officers shall execute the powers which the laws of nations give us over the persons, territory, or property of others, but cannot extend our jurisdiction over either, or give it in cases where those laws are silent. In advocating the resolution which requires some legislative rule on this subject, gentlemen seem to forget these principles—we have no power—we should encroach on the rights of other nations. As we cannot, therefore, give ourselves any new powers by any act of legislation, I trust gentlemen will see the bad policy and the injustice we should do ourselves by adopting any rule not to be found in national law. If we take from our officers the powers which that law gives them, we go to war on unequal terms, with our hands tied, so that we shall not be at liberty to treat our enemy as they treat us. Our officers could neither retaliate nor punish for the most atrocious outrages on humanity. Innocent blood would forever flow. Indian wars would never cease. Foreign emissaries would always hang on our borders, and escape with impunity. The law of nations and of war gives the General power over his prisoners. The old practice was to put them to death; and that still exists, when the consent of the belligerents has not adopted a different rule. Civilized nations govern themselves by the laws of humanity; but our savages have not yet learned them. War, with them, has lost none of its horrors or cruelties. It surely cannot be pretended that we are bound by a rule which they do not respect; that we cannot, by retaliation or by just punishment, revenge for past or prevent future murders; or that where we take white men who have served in civilized armies and know their usages, and yet aid and instigate the most dreadful savage war, we may not treat them as we might the savages or negroes whom they command and lead on. By the laws and uniform practice of civilized nations, this power is in the commanding General. In the case of Captain Asgill, the old Congress resolved that it was in every commander of a detachment. This was a strong case. He was about to be executed for the crimes of another. We have never, by any law, prohibited to a commanding officer the exercise of this power, and it therefore remains with him.

MONDAY, FEBRUARY 8.

Bank of the United States.

The SPEAKER laid before the House a memorial of William Jones, late President of the Bank of the United States, containing an exposition of the views and motives which have regulated his official conduct, and submitting his case to the wisdom and justice of Congress, in the full confidence that his reputation will not be subjected to obloquy, by inferences alike repugnant to his principles and to the whole tenor of his private and public life; which was read and ordered to lie on the table.

Seminole War.

The House again resolved itself into a Committee of the Whole, Mr. BASSETT in the chair, on this subject.

Mr. FLOYD, of Virginia, rose and said, that he saw the impatience of the House, and knew they were anxious to dispose of the resolutions which had been so many days the subject of discussion; consequently, he would not detain them—though, having failed in several attempts to get the floor at an earlier period of the debate, he had entirely declined making any remarks whatever—that he then rose more with a view of expressing an opinion, and of presenting a few facts, which had escaped the observation of other gentlemen, than any desire or intention of entering upon the subject at large.

I have, said he, considered the resolutions, with all the attention I was capable of giving

them; and, if I had believed the measures pursued unconstitutional in themselves or barbarous, or unjust in their execution, I should have revisited them upon the perpetrators with a heavy vengeance; but, so far from this, my inquiry has led me to believe they are, and can be, maintained, upon every principle of justice, and the long-established usages of this Government. And, sir, said Mr. F., it is with not a little surprise I hear the advocates of these resolutions disagreeing among themselves—scarce any two holding the same opinion.

The honorable Committee on Military Affairs have had all the documents relative to the Seminole war before them for weeks, and at last seized upon the objectionable point, and reported a resolution disapproving the trial and execution of Alexander Arbuthnot and Robert C. Ambrister. There was an end to answer, and this not being broad enough, other resolutions are offered, as amendments, to enlarge the chance of obtaining some success. One gentleman takes strong ground, and insists that the war was produced by us; that it was an aggression on our part, and all the proceedings resulting from it were unjust and unconstitutional. One other gentleman does not quite believe the war was waged by us, but believes the whole of the resolutions ought to obtain—that General Jackson is censurable throughout. One other admits the justice of the sentence of Arbuthnot and Ambrister, but vehemently condemns the capture of St. Marks and Pensacola. Again—it is admitted that the execution of these men was just and proper, and so with the capture of St. Marks; yet there is no justification in the affair of Pensacola. One other honorable gentleman finds nothing to excuse but the execution of Ambrister. Last of all, the gentleman from Massachusetts, (Mr. FULLER,) calls the war an aggression on our part; that it was unconstitutional; that its prosecution was unjust; the capture of St. Marks, Pensacola, and the Barancas, an infraction of the constitution—a war with Spain; the execution of these incendiaries a violation of the law of nations; and has even gone so far as to justify the erection of the negro fort, for the reason that Spain was too weak to prevent it.

Now, sir, if the honorable committee, in their calm retirement, a thousand miles from the scene of action, and months after it happened, could have discovered, from the documents, any "absolute necessity" for the execution of these wretched men, we have a right to infer that such a report would not have been framed by them; but the General, who was there encompassed by enemies, death, and devastation, judged wrong, and deserves the heavy censures of his country. There has been so much said upon this subject, such various and conflicting opinion among the advocates of the propositions, all diverging from the long-established maxims and usages of this Government, that I am unwilling to pursue them, without first inquiring what has been the course pursued by preceding Administrations, under similar circumstances.

In reverting to the transactions of this Government, it will be found, that, so long ago as the year 1789, difficulties and war with the Indian tribes took place; and the then President, WASHINGTON, felt himself authorized in taking measures to defend the people of the South and West from their hostile incursions, and advised Congress, at their next session, of the steps he had taken. That Congress thought the measures highly commendable and proper.

In the year 1790, we find the same Washington complaining grievously of hostile irruptions of certain banditti of Indians northwest of the Ohio, aided by some on the Wabash; that the country was no longer in safety on that whole frontier. He ordered one of the generals to march an army against them, which army was composed of the troops of the United States, combined with such draughts of the militia as were deemed sufficient. When this communication was made, no murmur was heard.

In 1791 difficulties and war with the Indians beyond the Ohio again commenced; troops were ordered to march against them, and Congress was informed that some of the expeditions had been crowned with success; that in other instances the troops were then in the field, the issue at that time not known. Congress again approved. Another proof of this sanctioned method of conducting this species of war, is given us in the transactions of the year 1792, when the Indians beyond the Ohio were in arms; the Chickamagas to the south had come to an open rupture. Troops were assembled, and put in training for a vigorous campaign; this, too, with a perfect knowledge of Congress, who complained not of any violation of right, or usurpation of power.

Were I to mention that the President of the United States, in the year 1793, used every possible means in his power to avoid war with the Indians, but, finding them fruitless and unavailing, ordered an army to march and act offensively, I should say no more than is known to every gentleman in this House; and I presume I should likewise say no more than is known to them, were I to say when the communication was made to Congress they approved the procedure. Whence, sir, I may be authorized in asserting, that no other opinions have ever been entertained of the correctness of the mode of conducting Indian hostilities, from the origin of the constitution to the present time, than those which directed in the late contest; which ought at least to be some apology with those who think the constitution has been disregarded in the commencement of hostilities. And how a different opinion came now to be entertained, though we have passed through some years of sorrowful experience, is more than I can conjecture.

That a doubt on this subject existed for a short time, with one member of the Government, is admitted; but that doubt was dissi-

pated when the true situation of the Indians came to be considered. The United States, feeling liberty, and actuated by principles of benevolence alone, extended to these people every privilege, and all the rights of an independent nation, which could be done consistent with their own safety, and the condition in which themselves were left by the long course of European policy under which they had suffered. And I presume it is not doubted that, in the war of the Revolution, when these United States took up arms against Great Britain, and conquered the country from her, comprised within the limits assigned to us by the Treaty of Peace in 1783, they likewise conquered those Indians who were the allies of England, bloody and revengeful then, as upon a more recent occasion; full as much so as the most sanguinary Briton could desire. I am much surprised to hear gentlemen now talk of concessions—their rights and independence. Were these concessions complete? Was it ever supposed by any to be so, or ever intended to be so? We are now told, as a proof of their independence, that we make treaties with them. This is the first time I have heard the doctrine, though, without doubt, many weighty reasons have led to that conclusion. The United States have always observed that ceremony, and permitted treaties to be made with different tribes, as one of the best means of conciliating their favor, and maintaining our peaceful relations undisturbed; as they have never been permitted to treat with any but the United States, or some Indian tribe. But, say gentlemen, they declare war, and are not guilty of treason in doing so. Was it not rather because they were totally incapable of appreciating the restraints of civilized men, that they were, in this respect, permitted to fangle their own destinies? Have not the United States ever claimed jurisdiction over their country, as contained within the limits of the Union? And when a proposition was made at Ghent to place it on a different footing, some gentlemen then felt great indignation at the idea. None will doubt, I imagine, the laws of the United States having always been in force throughout their country; the laws of the Indians only extending to Indians within their assigned territory. If we go back, with the gentleman from New York, to the discovery of this continent by Europeans, when it was chartered away by the monarchs of that country, down to the present time, we find they neither are, nor ever have been, independent.

But, sir, granting the question in as full and as broad an extent as gentlemen might desire, can it be presumed the forces of the Republic are to remain idle spectators—see hostile incursions take place—men, women, and children, put to death, without marching to defend them, until Congress shall authorize them to protect the helpless, and secure themselves? Suppose that power, with which we are doomed, at no very distant day, again to contend with, in the bloody field of death, should unexpectedly as it will be when it does come, declare war against us: is the President to permit the ships of war and the forces to lie idle, until Congress can be convened from all parts of this Union to declare war in turn? Yet this is the effect of that doctrine. This constitution is not of such leaden materials; it never was intended; it cannot abridge the first great clause of the constitution of man himself, written upon his heart by the hand of Omnipotence—"preserve yourself." The wisdom of this instrument is acknowledged; the feelings of the hoary sages of the Revolution, blanched in the field, amid embattled legions, is appreciated; and the doctrines of liberty, moulded into form, in this instrument, will be preserved; and to pursue, at this day, a course which themselves pursued, ought to screen us from the charge of dangerous innovation, or usurpation of power. I would ask, who there is among us that does not recollect the disasters of General St. Clair, and the anxiety of every individual for the success of General Wayne? And who is there that does not recollect the joyous enthusiasm at the news of his victory, which ran, like an electric stream, from one end of this continent to the other? This, I believe, was about the year 1794; and, too, at the instance of the Executive. I believe, likewise, that it was about this time that troubles harassed us at the South—an Indian war having been excited by De Carondelet, who was at that time Governor of Louisiana. At all events, there was strong grounds to suspect him for those hostilities. And for their expenses in the prosecution of this war, I believe it is, that the State of Georgia yet claims a debt due her from the United States of perhaps $129,000. And, could I recollect the arguments of the honorable gentleman from Georgia, (Mr. COBB,) at the last session of Congress, when he advocated the Georgia claim with so much ability and zeal, I would use them on the present occasion, with perfect confidence of success, at all events of gaining at least one proselyte. All was constitutional then—Executive power was all.

But, Mr. Chairman, I demand if Congress have not, or, rather, I ought to say, have not we, ourselves, sanctioned this war, to as great and full an extent as ever Congress sanctioned an Indian war? And why is that an evil now, which, at the last session, was encouraged, and might have been prevented? Was not the President harassed the whole of last session, with continual calls from this House? Did they not call on him to know what General Jackson was about? What measures he had taken to put an end to the Seminole war? Did they not require the orders which had been given to General Jackson to be communicated to them? And were they not communicated? Surely all this must have apprised them of the nature of the military operations on the Florida frontier? Nay, more, did they not require information relative to the manner in which that army was supplied? And the feelings created

by the disclosure of the contractor's conduct on that occasion will not, in a long time, be forgotten. To say nothing of the pay of the Georgia militia in that army having been increased from five to eight dollars, at the instance and management of the gentleman from Georgia, (Mr. COBB.) At all events, I recollect his pressing through this House a resolution to that effect in April last.

Now, sir, after these numerous acts of approval; after granting money, providing men, increasing their pay; inspecting the orders of the President to your generals—with time to act, and a knowledge of all, a measure of this kind, and a report of that nature, was not to be expected from this House as the reward of fidelity and zeal.

If there is censure anywhere, it is due to Congress for not having performed their duty; as the gentleman from Pennsylvania (Mr. HOPKINSON) admits, that, if there had been in existence such a law as the one contemplated by these resolutions, he unquestionably believes General Jackson had never executed Arbuthnot and Ambrister, or captured the Spanish fortresses; and yet that gentleman would censure this General for doing an act which he would not have done had such a law been in existence, and that such a law has never been enacted, cannot be any part of General Jackson's concern. Let Congress themselves account for this deficiency, which has, in the opinion of gentlemen, caused such violence to the constitution.

Mr. Chairman, was it right to pass the Florida line? At the last session I do not recollect to have heard a dissenting voice; though it was manifest then that the Executive paused and reflected, and reflected much, before the Secretary of War issued the order requiring General Gaines to march his army into the Spanish territory; and then only upon the recurrence of new outrages. These orders were as well known then as at this time; these outrages did occur; and, sir, I must think, then was the time for this House to act; then was the time to interpose, to have preserved the constitution. But, at that time, all these measures were pursued, as the only efficient mode of putting an end to the war. All were then energetically disposed to put an end to those hostilities which harassed Georgia and Alabama with murder and desolation. All were then disposed to do themselves that justice which, by the law of nations and nature, they had a right to do. As the well-known impotence of Spain almost precluded the hope of her maintaining her authority in that country, much less fulfilling her treaty obligations, which was manifest from her not having herself undertaken to subdue her Indians making this war upon us, some gentlemen thought the order to General Gaines slow and inefficient, which required him to halt his army, and not to attack the enemy under the fort of St. Marks until he reported to the Department of War, and received orders how to proceed; believing, from the nature of the treaty of 1795, Spain to be, in that respect, an ally of the United States.

I will not insist, as has been done by gentlemen who advocate the same side with myself, that the orders of General Gaines were not binding upon General Jackson, believing, as I do, that an order issued to an officer is binding upon the next who takes command, though of a higher rank, provided that order had been issued by their common superior. But it appears, from the documents, that General Jackson received an order of subsequent date, from the War Department, to conduct the war in Florida "in the manner he might think best." Certainly the Secretary could not have meant any thing more than that he was to conduct the war in the manner he should think most conformable to the law of nations. Considering the peculiar condition of all the parties, they could not mean any thing else. Then the inquiry is, has he done so?

On assuming the command at Fort Scott, this General soon fixed on a plan for his future operations; and, in the course of his march, penetrating into Florida to find the enemy's town, he encamped at Prospect Bluff, on the old site of Negro Fort. Finding it so entirely convenient as a place of deposit, he erects Fort Gadsden, contrary to every principle of justice, in the opinion of some gentlemen, who justify the erection of Negro Fort, because Spain was not able to prevent it, and call that an outrage which destroyed it, though there were many hundred stand of arms, much powder, cannon, &c., there, manifestly destined to be used against the United States; and the burning alive of a prisoner, and the massacre of a boat's crew, might be thought by some a confirmation of that belief.

It was from this place General Jackson wrote to Governor Mazot, with all that frank and open manner to be expected from an American officer, who was executing the orders of his Government, in prosecuting a war which we had been engaged in through the inability of Spain to wage, and in the termination of which both countries were equally concerned, informing him, in the most explicit terms, of his friendly intentions, and only asks that provisions might be permitted to ascend the Escambia to Fort Crawford. Was it the part of a neutral nation to refuse that passage, when perhaps the lives of part of his troops depended upon those supplies? Was that the course Spain ought to have taken to fulfil her stipulations? Under such circumstances, the law of nations will justify force.

Hearing that the hostile Indians were embodied at a town called Mickasuky, his march was directed that way, where a battle ensued—the issue, success. And notwithstanding my honorable colleague (Mr. MERCER) thinks the accounts of those terrible massacres all vanish to nothing upon examining into the subject, there was found in this village a war pole, decorated with fresh scalps, recognized by the

hair as torn from the heads of Lieutenant Scott and his party; and in the house of Kenhajo, the chief of that town, were found more than fifty others!

After this battle, it is ascertained that the enemy had departed, whilst one party directed their march to Suwanee, the other to the fort of St. Marks. It was then Captain Call, a gentleman I am not acquainted with, but on inquiry I learn from every source that he is esteemed a man of honor, and a brave and excellent officer—it was then he informed General Jackson of the message of the Governor of Pensacola. That the fort of St. Marks was weak; that demands had been made upon it for munitions of war by the negroes and Indians; that he entertained strong fears for the safety of the fort, as they had threatened to seize it in case of refusal. Moreover, it appears from the documents—proof, I think, sufficient of itself to justify the capture of that post—that the Indians did obtain ammunition and arms at that place; that councils of war were held in it by the enemy, and in the quarters of the Spanish commander; that the property plundered from the citizens of Georgia was sold there; that Luengo did permit the clothes taken from Scott's party to be sold to the Spanish soldiery; and even contracts were made for the purchase of property that was to be plundered from Georgia. Now, I ask, if prudence, justice, self-defence, did not demand the capture of St. Marks? Surely, the Governor of Pensacola's message, if it means any thing, was an invitation to take possession of it, even perhaps to prevent a development of their nefarious conduct.

After these operations, General Jackson determined to put an end to the war, by giving battle to the negro and Indian forces concentrated at the Suwanee towns, and, after innumerable difficulties, arrived at that place, and defeated those who had not availed themselves of the philanthropic disinterestedness of Mr. Arbuthnot, who, it seems, had advised his friend Bowlegs, by express from St. Marks, of the number and movements of Jackson's army; and, too, with a knowledge of the Spanish officer. This duty performed, he returned to St. Marks, through the wilderness, in five days, a distance of more than one hundred miles, with a firm persuasion that the war was at an end, and in a few days returned to Fort Gadsden, on his way home. Why did he not return home? Here he was informed that Fort Crawford was in great distress for the want of provisions, which the Governor of Pensacola had prevented from going to them, by enormous exactions; that the negroes and Indians had possession of that place; that a party had been pursued within sight of it by a detachment from Fort Crawford, and defeated, the fugitives taking refuge in that town; that the place was no longer under the control of the Spanish power; that many murders had been committed in Alabama by bands who went from that post, and returned to it, with their booty and scalps. Can it be supposed, under these circumstances, any place is to be regarded as neutral? It is of little consequence to the sufferers, whether it proceeds from inability to maintain its authority, or an unwillingness to do so. The effect is the same. To take possession of a post from which he has been annoyed by his enemy, is justice, and is conformable to the law of nations. Surely, if his enemy is sheltered by a fortress, and from it munitions of war obtained, inroads and murders planned and executed, and a return to that place safe, to commence anew these scenes; it is difficult to conceive why the opposite party is not entitled to the same indulgence. The Governor of Pensacola does not deny this feebleness, though he refuses positively to surrender the post; in which he is right, as he, too, has to account to a superior officer for his conduct. The inquiry then is, why did General Jackson take it? The same answer may be given which was given for the capture of St. Marks. Are these things true? The Spanish superior authorities think so; the Spanish King himself thinks so. Then it was no war on the part of General Jackson, but the assertion of a right, resulting to us from the law of nations. So it has been considered by all but our own constitution; which, whilst it secures our liberty within, it would seem takes away our rights from without.

Much has been said of the trial of Arbuthnot and Ambrister; and, as I have already said, after weeks of consideration, the Committee on Military Affairs could not find any thing to censure but the execution of these two British agents and incendiaries. The one, bold and hardened in guilt, plead guilty to the charges; the other expects escape from his diplomatic skill. We are perfectly astonished, on examining the documents, to find them persevering for a long time in maturing their schemes of murder, and making arrangements to effect their plans, in procuring arms and placing them in the hands of the merciless savages, in stimulating them to commence this war, in all its horrors, and fall like a flood of fire on our whole frontier, sweeping away all, both innocence and age. More arms, of every description, are sought for; knives, flints, and tomahawks, in alarming quantities. To crush the lawless banditti of Indians and rebellious slaves, who observe no law, human or divine, urged to murder, indiscriminately, men, women, and children, burn, plunder, and destroy, without distinction, without remorse, by these relentless fiends, General Jackson is ordered into the field. Yet, for the destruction of these unhappy men, are the Representatives of the people of this great Republic called on, by that extraordinary report of the committee, to censure their General; and that, too, for not showing mercy to those who knew no mercy, and whose hands were smoking with the blood of hundreds of their countrymen! This General who, in the

day of adversity, stood like a rock of adamant, and breasted the tempestuous waves of a doubtful war; a war which had shook from their base the massy columns of the Hall where it was declared, and razed the Capitol to its foundation stone, whilst frenzied fear bewildered all it met, and red-eyed hate rolled with Satanic smile upon the Administration of your country; he it was who raised a reputation to your arms and to your country, bright and more bright as the storm lulled away.

Even now again, almost upon the instant, that gentlemen defies all, and challenges history to produce one single example, and then adds, there was none. I will not, Mr. Chairman, question the prowess of the Kentuckians; I believe they are brave, independent, hospitable, and magnanimous, and all things that gentlemen could wish them. I am proud at all times to hear of their deeds of valor. Yet this thing called bravery, I believe, is pretty equally diffused through the great mass of men, and, under similar circumstances, there would be found but little difference; brave officers will always make brave men. Though what is said of this conspicuous State cannot be doubted, as all who have conversed with them know they are independent; all who have travelled in that State doubtless have partaken of their hospitality. And that they behaved well at the battle of Tippecanoe, I do not doubt; that they behaved bravely at the battle of the River Raisin I will not doubt; that they behaved gallantly at the battle of the Thames I cannot doubt. But, sir, there was retaliation, and most conspicuous, in that State. In one instance, well known, when a party of Indians had committed depredations and murders, were followed by Colonel Lyne, known to be a brave and active officer, by some chance of war one of the warriors fell into his hands, and was hanged upon the next tree. The most striking instance, however, is one which my friend from Ohio (Mr. HARRISON) has just brought to my recollection—that, when that great General and best of men, George Rogers Clark, was on that celebrated campaign in which he stormed a whole chain of British posts on the Wabash and Kaskaskias, he captured the town of St. Vincennes; whilst in the town, the well-known noise was heard in the neighborhood, which informed the inhabitants that a war party was then returned with scalps. Clark immediately despatched some of his soldiers and took them prisoners. When the mischief they had done was ascertained, he ordered them to be taken in view of the British fort, and told to ask protection from their good father, George the Third, and in that place were all instantly put to death. In those days there were numerous instances of individuals who had lost a relation by the Indians, taking their rifles, and going in search of the enemy, even in their own country, and killing one. At that time they called it "taking satisfaction;" of course it might not be retaliation.

If I were to declare an opinion as to the horrors and cruelty of all our Indian wars, I would unhesitatingly say, to British agents all is attributable; nor can I now feel this sickly sorrow for them. But, in those gloomy days the honorable gentleman from Kentucky speaks of, the machinations of these agents wrung with agony and pain the bosom of many a gallant man in that country with apprehensions for the consequences. Children at school, in the hours of play, were butchered, at the instigation of those agents; murder on every road, and death in every path; all went armed to their daily avocations. Sir, the friend of my boyhood, the honorable chairman of the Committee on Military Affairs, ought to tell of early times there, and of Indian wars and British agents, though at that time he was only of such an age as to know the danger, and rejoice when the sun went down without seeing the mangled corse of a murdered friend brought into the fort. The melancholy transactions of the Seminole war are but faint rehearsals of thousands and thousands of such acts in the West. And, even at this day, the name of British agent or trader, for they are synonymous, will create a sudden start of horror in the widowed mother of a family, as it tears open all the sluices of her grief, which time had soothed, but could not destroy. The children were hushed to silence by the terrible names of Simon Girty and McKee. Could those incendiaries have been taken in those days, every voice would have pronounced their doom. Not only individuals in that country, but whole families, were swept away; many who had rendered brilliant services to their country, are now only known to those who feel a kindred sorrow; and if a gallant deed has faintly pierced the terrible night which overhangs their fame, should cause a stranger to ask where they are now, or where their children, echo mocks the inquiry, and retorts the question.

Unquestionably, sir, there are many rights incident to a state of war; that, when hostilities have commenced, and an enemy every hour in view, it is difficult for a deliberative body like this to seize upon an abstract principle, and apply it, at that particular place or moment, and say what was or was not necessary for their General to do. He knows the obligation he owes to the constitution of his country and the authorities of the State, and knows what, by the law of nations, he may do when surrounded by war and desolation, his enemy near at hand, and retiring into a neutral country. He has a right to follow, that neutral power not prohibiting the entry of his enemy; his country, to say the least, rightfully becomes the theatre of war. Nor is it easy to conceive this feverish discontent at the death of men who rightfully died; and, whatever may be thought of it here, in the sunshine of peace, and the whirl of gay daylight, the people there consider it a blessing, and no doubt has already saved the lives of many hundreds of our citi-

zens. Nor can it be well understood why these executions should be deemed cruel, when with them are associated the deeds for which they suffered. Whilst recollection paints the horrors of death in all its terrible forms—the scalps, fresh bleeding, torn from our countrymen, placed upon a pole, becoming the subject of hellish mirth; the helpless female butchered whilst kneeling and suing for mercy; the toothless little infant snatched from its mother's bosom, and its brains dashed out against a tree—its body thrown on the ground, there lies quivering in death. Sir, amid scenes like these, and the enemy at hand, to talk of delays is to deride the mandates of nature and of nature's God.

It has been further remarked by an honorable gentleman from Pennsylvania, (Mr. HOPKINSON,) that of all the genius in the world there is none dangerous to the community but a military one. Newton's genius was so great that it seemed to hold converse with the stars; the erratic comet in its course could not escape him, and, I believe, even threw light upon the sun—yet this was harmless. Shakspeare, the great source of pleasure and instruction to ages, past, present, and to come, was perfectly innocent in all its operations. The honorable Speaker says, too, should we not cling to the constitution, and preserve it by passing these resolutions, that the day is close at hand when some daring chieftain, after another splendid victory, will strut in his gaudy costume, casting a look of approbation as he walks between obedient rows of admiring vassals, and seize upon your liberties; and then the hills rising round your Capitol will be covered with the gorgeous palaces of a pampered *noblesse;* and then tells us, in words which sound very much like Patrick Henry's, that Rome had her Cæsar, Britain her Cromwell, France her Napoleon, and may we profit by the example. *Napoleon!* If I were to express myself with an enthusiasm not my own, I would say when nature made the world, she next made the spirit of that great man, and then she rested. I saw, or thought I saw, the impression those dangers of military men seemed to make upon the House, and believe I am about to hazard an opinion, new in a degree, and very opposite to that of both these honorable gentlemen, which is, that no government has ever yet been destroyed by a successful military chieftain. I appeal to history to support me, if my construction be right. If I recollect the words of the historian, "Cæsar, having less reputation, like a wise champion, retired to a distance, for exercise, whilst the two great factions preyed upon the liberties of Rome; when every contest for place or power, was decided in the forum by the sword, and stained the Capitol with blood." Then, not till then, did Cæsar return to Rome, which, ever since the wars of Marius and Sylla, had known no liberty. Nor is the overthrow of the British Government attributable to Cromwell; the speeches of Parliament produced the revolution, and the treachery of members. When all was in commotion, by canting and preaching, Cromwell secured the stronger party and became the Protector. Nor can the French revolution be attributed to any thing but to the insincerity of the orators in the States General, and to none in a higher degree than that greatest of orators, and worst of men, Mirabeau. If, in after times, as in all other revolutions, Napoleon secured the stronger party, and swayed the Government, it cannot be said he overturned it. Did not every distinguished man in France rule as long as he was popular with the stronger party; and did he not cease to rule as soon as he lost his popularity? This was no reproach to professedly politicians, though in a military man, possessing power by the same means, it subjects him to the charge of using his military power to overthrow the Government of his country; and by none more than disappointed orators, who had contributed to the downfall of many successive administrations, with a hope of one day possessing it themselves. If I recollect the history right, the only instance of the overthrow of a regular government was by an ambitious statesman, one of the Dukes of Venice, who boldly seized upon the powers, declared the then Senators Senators for life, and their children after them. This, I am inclined to believe, is the source of their nobility, the only patent they have for rank. Moreover, I believe it would be correct to say these men, the most conspicuous military destroyers of their country, were all created by the times. No, Mr. Chairman, our liberties are not to be endangered by a successful chieftain, returning to us with his gaudy costume, even after a hundred victories of New Orleans. It is here, in this Capitol, on this floor, that our liberty is to be sacrificed, and that by the hollow, treacherous eloquence of some ambitious, proud, aspiring demagogue. And if, in times to come, we should hear a favorite officer, who has exhausted his constitution in defence of his country—throwing wreaths of victory at her feet—charged with violations of her liberty, let us inquire whether the sternness of his virtues is not his greatest blemish. If history gives an account of a military chief's returning to his country, and overthrowing its settled institutions, it has, at this time, escaped my recollection.

Mr. ERVIN addressed the Chair as follows:

Mr. Chairman: I am sorry it has fallen to my lot to be so late in debate on this question. From my own feelings, I am persuaded the committee is exhausted, and unwilling to bestow its attention, anticipating a want of capacity in any member to throw any new light upon this interesting subject. A sense of duty, however, has determined me to express to you the opinion which I entertain in relation to it, in doing which, I anticipate the same indulgent attention which you have accorded to other gentlemen. Before entering upon its discussion, I feel it a duty which I owe to the people and

myself, to express my extreme regret, that so much of our time has been appropriated to its discussion, whilst other subjects of practical utility, and great public importance, have awaited our attention. Experience, sir, has long since taught me the inutility of the expression of legislative opinion upon abstract questions; because, whatever may be the result of their deliberations, and the opinion expressed, it can have no binding efficacy in determining the discretion of subsequent legislatures. At the last session of Congress, much sensibility was felt because the President of the United States expressed his opinion and determination on a subject which he anticipated would engage the attention of Congress. Although the correctness of the motive, in that case, was known and appreciated, fears were entertained, lest, if indulged and continued on the part of the Executive, and acquiesced in by Congress, a precedent would be formed which might tend to limit legislative discretion. If the informal expression of this opinion, on a subject of which he had concurrent jurisdiction, was deemed incorrect, what opinion will be formed of the character of the expression of an opinion in relation to a military officer, not by the Congress of the United States, but by the House of Representatives, over whom, even in their capacity as the impeaching power, they have no jurisdiction? For, as the House of Representatives, the only power given to it by the constitution (and without which it has no power) is a power to judge of the elections, returns, and qualifications of its own members, and to punish or expel a member. In giving a construction to the constitution, which I am sworn to support, I cannot, and will not, suffer my mind to be deluded by the imposing idea of the House of Representatives being "the grand inquest of the nation." I have just enumerated its powers in its separate capacity, and contend, that the exercise of any power beyond that enumeration is assumed, but not delegated. Courts of inquiry and courts-martial are the proper and legal correctives of error or criminality in the military, which, if neglected to be applied by the President, in cases requiring it, he is responsible.

Again, sir, the sovereign authority ought never to speak, but when it can command; and ought never to command, but when it can compel obedience. In this case, the officer may lie securely intrenched behind Executive protection, your resolves to the contrary notwithstanding; and a departure from this principle ought never to be indulged, unless in approbation of splendid achievements, by land or by water, which will have the happy effect of increasing the moral power or force of the nation.

The treaty of Fort Jackson, in August, 1814, which is said to have been the cause of the late Indian war, has been adverted to in terms of disapprobation and severe animadversion. "The United States demand—the United States demand"—expressions used in that treaty, are thought too dictatorial.

Mr. Chairman, what age or country ever saw it otherwise than that the conqueror should dictate terms of peace; and, in this case, circumstances imperiously required it. For, in the midst of peace, whilst we were endeavoring to extend to the Indians the advantages of civilization, supplying them with implements of husbandry, and paying them an annual tribute for their friendship, and just at the time when we had engaged in war with a powerful and warlike nation, forgetful of those acts of kindness, they joined our enemy, and commenced a war of extermination against our helpless women and children. Pity still drops a tear at the remembrance of the conflagration of upwards of three hundred men, women and children in Fort Mimms in 1813, and the winds still sigh over the fields and repeat the dying groans of our brave countrymen, who were inhumanly butchered in cold blood by the Indians after they had capitulated at the River Raisin. The whole frontier of Tennessee and Georgia was threatened with ruin and desolation from savage barbarity until the hero of New Orleans appeared upon the theatre of action, and, by triumphing at Talladega, Tullushatcha, Emuckfaw, and Tohopeka, taught that unhappy deluded people, that, although we were engaged in a foreign war, we were still able to avenge savage insults, and repel savage injuries. And will any one, after these facts and atrocities being presented to him, pretend to say, that it was unjust or unwise for the conqueror to cause them to be removed from the proximity of a neighboring nation, from whence they were continually goaded on to acts of violence and deeds of murder; or to dictate such terms of peace as were best calculated to prevent the repetition of similar scenes, and give security to our southern frontier? I hope not. Your General, as one of the commissioners on the part of the United States to make that treaty, acted correctly. The laws of nations declare, "that an equitable conqueror, deaf to the suggestions of ambition and avarice, will make a just estimate of what is due to him, and will retain no more of the enemy's property than what is precisely sufficient to furnish the equivalent. But, if he has to do with a perfidious, restless, and dangerous enemy, he will, by way of punishment, deprive him of some of his towns or provinces, and keep them to serve as a barrier to his own dominions." Notwithstanding the treaty of August, 1814, which was depended on as effecting peace between us and those savages; notwithstanding the treaty of peace between this country and Great Britain, which also was expected to have produced the same happy effect, they remained still hostile; notwithstanding all your triumphs over them, they were beaten, but not conquered; they were scattered, but not annihilated; they rallied again, and were afforded shelter and protection in East and West Florida, Spanish

neutral—neutral, did I say?—Spanish hostile territory.

Mr. Chairman: I care not for professions of neutrality; they shall not impose upon my credulity; give me the evidence of facts which are not to be biassed by fear, or influenced by hope; and, if we are to be determined, or to judge by them, Spain was not neutral. I said, sir, that the Indians were suffered to settle in the Spanish territory, in the neighborhood of Pensacola, in West Florida, and on the river Appalachicola, and on a creek called Yellow Water, in East Florida, and there in silence brooded over imaginary evils, and meditated bloody vengeance. Two civilized barbarians, Ambrister and Arbuthnot, foreign emissaries, once more lighted up the torch of war, and let loose upon us those infuriated barbarians. In 1816, a boat's crew was murdered, and an American citizen was tarred, feathered, and burnt to death. On the 30th of November, 1817, Lieutenant Scott and fifty persons, consisting of men, women, and children, were inhumanly murdered, except a very few who were wounded, but effected their escape. On the 13th or 14th of March, 1818, two whole families on the Federal road, in the Alabama Territory, were put to death. The next day, five men, riding along a road, were fired upon, three killed and two wounded. Terror and dismay pervaded the whole country.

Mr. Chairman: War in its mildest form is dreadful; but what force of eloquence—what power of description, can give an adequate idea of Indian warfare? It is a war of extermination: like the lava of Etna, fear marches before it. Like the storm of the desert, ruin and desolation lead up its dreadful rear. Did you ever, sir, meet a man returning alone from your southern frontier, who had moved there with a large family? With sorrow in his face, and tears in his eyes, he begins the mournful tale, but is unable to proceed—his feelings deny him utterance. Mr. Chairman: Have you not a family? Do you not love them? Is it not for them that you wish to live? Is it not for them that you would dare to die? The glad day, sir, will soon arrive, when you will return home, and behold again the wife of your youth, and your children, the objects of your affection. He too once had a family, but now they are gone; he will never see them more. The night was gloomy; her husband, her protector, was far away; the pale moon hid her face behind the clouds; the winds blew; the tempest howled; trembling she pressed to her bosom the tender objects of their mutual love. At length destruction came: the yell of the savage awoke the sleep of the cradle; fire and the tomahawk without, horror and dismay within; the tender infant lifts up its arms for protection, and receives the stroke of death, and the shrieks of the distracted mother are hushed in everlasting silence. O! sir, suspect no deception; it is not the pencilling of fancy; it is history, faithful history, written in characters of blood along your whole southern frontier.

But, sir, it is said that General Jackson, in causing Arbuthnot and Ambrister to be executed, acted incorrectly, and even his reasoning has been considered wrong. I disclaim, Mr. Chairman, having any thing to do with his reasoning, and if, upon investigation, I find his conduct correct, I shall be satisfied. I would do great injustice to my feelings, sir, notwithstanding the criminality of the conduct of those men, did I not express my extreme regret that they were executed. Thinking, however, as I do, that General Jackson had the power, as commander, to put them to death, and having exerted that power, no doubt as he thought for the good of his country, I acquiesce. There is no evidence that they were spies, in which case they ought to have been tried by a court-martial, furnished with the grounds of their accusation, and confronted with the witnesses. They were foreigners, without our territory, owed this Government no allegiance, either local or general, and could therefore not be put to death for high treason. And our courts for the punishment of crimes on land could not take cognizance of their acts, however criminal, because they were perpetrated in a foreign country and out of their jurisdiction. Nor were they put to death to satiate cruelty or gratify a malignant spirit of revenge, but as subjects of retaliation, and, in terrorem, to prevent other foreigners from identifying themselves with the Indians and exciting them to murder and rapine. This power, in every age, has belonged and appertained to the commanding General; he commands the commencement of destruction, and, in modern warfare, stays the carnage at the cessation of resistance; but, in ancient times, if he pleased, not until there was no one left to resist. When war became less sanguinary, the vanquished were made prisoners and led into slavery:—chained, they followed in the train, to swell the pomp and triumph of the victor; and their lives, although spared, were always supposed to be forfeited, and at the mercy of the commanding officer, under circumstances of imperious necessity. Upon this principle was the bloody massacre of the prisoners justified, who, upon the false alarm after the battle of Agincourt were ordered to be executed by Henry the Fifth, the pink of courtesy and delight of chivalry; and from this principle, disguise it as you may, is derived the power to put an innocent prisoner to death by way of retaliation. The law of nations considers your enemies in your power, not merely as prisoners, but as hostages for the correct treatment of your countrymen in the power of your enemies. By the laws of civilized modern warfare, women and children are exempt from destruction, which, if denied to them, you are perfectly justifiable to retaliate upon the Indians, or those who identify themselves with them, so as to prevent its repetition. This power of retaliation was assumed by General

Washington, in the Revolutionary war, in the case of Captain Asgill; and when the same power was assumed by General Greene, to the south, on account of the execution of the gallant Hayne, the then Congress acquiesced in the assumption of such power, by each of those great men. But the honorable Speaker says, "the right of retaliation is an attribute of sovereignty, and comprehended in the war-making power," and that because Congress has, in the rules and articles of war, provided a tribunal for the trial of spies, they have the power to prescribe the rule or mode of trial in cases of retaliation. Again, that no man could be executed in this free country, without two things being shown: first, that the law condemns him to death; secondly, that his death is pronounced by that tribunal which is authorized by law to try him.

After Mr. ERVIN had concluded his speech, the House yet being in Committee of the Whole—

The question was taken on the adoption of the following resolution, reported by the Committee on Military Affairs:

"*Resolved*, That the House of Representatives of the United States disapproves the proceedings in the trial and execution of Alexander Arbuthnot and Robert C. Ambrister."

And decided in the negative—ayes 54, noes 90.

The question was then put on agreeing to the first resolution proposed by Mr. COBB, as follows:

"*Resolved*, That the Committee on Military Affairs be instructed to prepare and report a bill to this House, prohibiting, in time of peace, or in time of war, with any Indian tribe or tribes only, the execution of any captive, taken by the Army of the United States, without the approbation of such execution by the President."

And decided in the negative—ayes 57, noes 98.

The question was then taken on the second resolution offered by Mr. COBB, which he modified to read as follows:

"*Resolved*, That the late seizure of the Spanish posts of Pensacola and St. Carlos de Barancas, in West Florida, by the Army of the United States, was contrary to the Constitution of the United States."

And decided in the negative, also—ayes 65, noes 91.

The question was then taken on the third and last resolution proposed by Mr. COBB, as follows:

"*Resolved*, That the same committee be also instructed to prepare and report a bill prohibiting the march of the Army of the United States, or any corps thereof, into any foreign territory, without the previous authorization of Congress, except it be in the case of fresh pursuit of a defeated enemy of the United States, taking refuge within such foreign territory."

And decided in the negative—ayes 42.

The Committee of the Whole then rose and reported their proceedings to the House, and the question being stated on concurring with the Committee of the Whole in their disagreement to the resolution reported by the Military Committee—

Mr. POINDEXTER, with the view, and with that view alone, of obtaining a vote directly on concurrence with the Committee of the Whole in their report, called for the previous question.

The House agreed to take the previous question—ayes 95; and,

The question being pronounced from the Chair, "Shall the main question be now put?"

Mr. SPENCER, upon this question, called for the yeas and nays, which were refused; and

The House having agreed to take the main question, of concurring with the Committee of the Whole in their disagreement to the resolution reported by the Military Committee,

Mr. HARRISON called for a division of the question—conceiving the cases of Arbuthnot and Ambrister to be very distinct, and marked by circumstances so different, as to permit the approval of one and censure of the other.

The trial, sentence, and execution of Arbuthnot were, he said, in his opinion, perfectly correct; and, although he would not agree to censure any one concerned, when their motives were as pure as he was certain they were on this occasion, especially when he had no doubt but both men deserved death; yet, being called upon to say whether the execution of Ambrister was right or wrong, as he differed in opinion from General Jackson as to his powers over the court, he was obliged to say that it was wrong. It was an honest difference of opinion, he said, and was not intended to convey any censure upon that officer.

The question was then taken on concurring with the Committee of the Whole in their disagreement to the first branch of the resolution, viz: "That this House disapproves of the trial and execution of Alexander Arbuthnot," and decided in the affirmative, by yeas and nays, 108—62.

The question was then taken on concurring with the Committee of the Whole, in its disagreement to the second part of the resolution, viz: "That this House disapproves of the trial and execution of Robert C. Ambrister," and decided also in the affirmative, by yeas and nays, 107—63.

So the House concurred with the Committee of the Whole in rejecting the resolution of censure reported by the Military Committee.

Mr. COBB then moved the adoption of the second resolution, offered by him in Committee of the Whole, as modified, in the following words:

Resolved, That the late seizure of the Spanish posts of Pensacola, and St. Carlos de Barancas, in West Florida, by the Army of the United States, was contrary to the Constitution of the United States.

The question was then taken on the resolu-

tion proposed by Mr. COBB, and decided in the negative as follows:

YEAS.—Messrs. Abbot, Adams, Allen, Austin, Ball, Bayley, Beecher, Bloomfield, Burwell, Cobb, Colston, Cook, Crawford, Culbreth, Cushman, Edwards, Ellicott, Fuller, Gilbert, Harrison, Herbert, Hopkinson, Huntington, Irving of N. Y., Johnson of Va., Lewis, Lincoln, Lowndes, W. Maclay, W. P. Maclay, Mason of Rhode Island, Mercer, Mills, Robert Moore, Mosely, J. Nelson, T. M. Nelson, Ogden, Pawling, Pegram, Pindall, Pitkin, Pleasants, Reed, Rice, Robertson, Ruggles, Schuyler, Sherwood, Silsbee, Simkins, Slocumb, J. S. Smith, Speed, Spencer, Stewart of North Carolina, Storrs, Strong, Stuart of Maryland, Terrell, Terry, Trimble, Tucker of Virginia, Tyler, Westerlo, Whitman, Williams of Connecticut, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania—70.

NAYS.—Messrs. Anderson of Kentucky, Baldwin, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bennett Blount, Boden, Bryan, Butler of Louisiana, Campbell, Clagett, Comstock, Crafts, Cruger, Davidson, Desha, Drake, Ervin of South Carolina, Floyd, Folger, Gage, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hogg, Holmes, Hostetter, Hubbard, Hunter, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Livermore, McLane of Delaware, McLean of Illinois, McCoy, Marchand, Marr, Mason of Massachusetts, Merrill, Middleton, Samuel Moore, Morton, Murray, H. Nelson, Nesbitt, New, Newton, Ogle, Orr, Owen, Palmer, Parrot, Patterson, Peter, Poindexter, Porter, Quarles, Rhea, Rich, Richards, Ringgold, Rogers, Sampson, Savage, Scudder, Sergeant, Settle, Seybert, Shaw, S. Smith, Bal. Smith, Alexander Smyth, Southard, Strother, Tarr, Taylor, Tompkins, Tucker of South Carolina, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Wilkin, and Williams of New York—100.

And then the House adjourned.

THURSDAY, February 11.

A new member, to wit, from North Carolina, CHARLES FISHER, elected to supply the vacancy occasioned by the death of George Mumford, appeared, produced his credentials, was qualified, and took his seat.

SATURDAY, February 13.

Missouri State Government—Restriction of Slavery.

The House then, on motion of Mr. SCOTT, resolved itself into a Committee of the Whole, (Mr. SMITH, of Maryland in the chair,) on the bills to enable the people of the Territories of Missouri and Alabama to form State Governments.

The bill relating to the Missouri Territory was the first in order, and the first taken up.

The committee were busily occupied until half past 4 o'clock, in maturing the details of this bill, and discussing propositions for its amendment; in which Messrs. SCOTT, ROBERTSON, MILLS, HARRISON, ANDERSON of Kentucky, DESHA, TALLMADGE, CLAY, and BARBOUR, participated.

In the course of the consideration, Mr TALLMADGE moved an amendment, substantially to limit the existence of slavery in the new State, by declaring all free who should be born in the Territory after its admission into the Union, and providing for the gradual emancipation of those now held in bondage.

This motion gave rise to an interesting and pretty wide debate, in which the proposition was supported by the mover, and by Messrs. LIVERMORE and MILLS, and was opposed by Messrs. CLAY, (Speaker,) BARBOUR, and PINDALL; but before any question was taken, the committee rose, and the House adjourned.*

MONDAY, February 15.

Missouri State Government—Restriction on the State.

The House having again resolved itself into a Committee of the Whole, (Mr. SMITH of Maryland in the chair,) on the bill to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of the same into the Union—

The question being on the proposition of Mr. TALLMADGE to amend the bill by adding to it the following proviso:

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* This was the commencement of the great Missouri agitation which was settled by the compromise. No two words have been more confounded of late than these of the restriction and compromise—so much so that some of the eminent speakers of the time have had their speeches against the restriction quoted as being against the compromise—of which they were zealous advocates. Though often confounded, no two measures could be more opposite in the nature and effects. The restriction was to operate upon a State—the compromise on territory. The restriction was to prevent the State of Missouri from admitting slavery—the compromise was to admit slavery there, and to divide the rest of Louisiana about equally between free and slave soil. The restriction came from the North—the compromise from the South. The restriction raised the storm—the compromise allayed it. And all this may be seen in the debates on the subject, now made accessible to the community by this abridgment. Since it has come into vogue to decry the compromise, much inapplicable testimony has been brought against it; among the rest a letter from Mr Madison to Mr. Robert Walsh, of Philadelphia, of date November 27th, 1819. That letter has been published in a handsome quarto volume (of Mr. Madison's letters) by Mr. James C. McGuire, of Washington City—a publication not made for sale, or to subserve a purpose, but for presents to friends. It is a great mistake in the understanding of that letter, and a wide misapplication of its close and masterly reasoning, to understand it as applying to the compromise. On looking at it, it will be seen that its whole tenor applies to the restriction on the State; that the word compromise is not in it; that it was written the year before the compromise, and at the very moment—the eve of the meeting of Congress, the session of 1819-'20—when the attempted restriction had occasioned the loss of the State bill the session before, and when the restriction question was wearing its direst aspect.

"*And provided*, That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall have been fully convicted; and that all children born within the said State, after the admission thereof into the Union, shall be free at the age of twenty-five years:"

The debate which commenced on Saturday was to-day resumed on this proposition; which was supported by Mr. TAYLOR, Mr. MILLS, Mr. LIVERMORE, and Mr. FULLER; and opposed by Mr. BARBOUR, Mr. PINDALL, Mr. CLAY, and Mr. HOLMES.

This debate (which was quite interesting) involved two questions; one of right, the other of expediency. Both were supported by the advocates of the amendment, and generally opposed by its opponents. On the one hand, it was contended that Congress had no right to prescribe to any State the details of its government, any further than that it should be republican in its form; that such a power would be nugatory, if exercised, since, once admitted into the Union, the people of any State have the unquestioned right to amend their constitution of government, &c.

On the other hand, it was as strongly contended that Congress had the right to annex conditions to the admission of any new State into the Union; that slavery was incompatible with our Republican institutions, &c.

Besides the above gentlemen, Mr. HARRISON and Mr. HENDRICKS spoke on points incidentally introduced into the debate.

Mr. TAYLOR, of New York, spoke as follows:

Mr. Chairman, if the few citizens who now inhabit the territory of Missouri were alone interested in the decision of this question, I should content myself with voting in favor of the amendment, without occupying for a moment the attention of the committee. But the fact is far otherwise: those whom we shall authorize to set in motion the machine of free government beyond the Mississippi, will, in many respects, decide the destiny of millions. Cast your eye on that majestic river which gives name to the Territory, for the admission of which into the Union we are about to provide; trace its meanderings through fertile regions for more than two thousand miles; cross the Stony Mountains, and descend the navigable waters which empty into the Western ocean; contemplate the States hereafter to unfurl their banners over this fair portion of America, the successive generations of freemen who there shall adorn the arts, enlarge the circle of science, and improve the condition of our species. Having taken this survey, you will be able, in some measure, to appreciate the importance of the subject before us. Our votes this day will determine whether the high destinies of this region, and of these generations, shall be fulfilled, or whether we shall defeat them by permitting slavery, with all its baleful consequences, to inherit the land. Let the magnitude of this question plead my apology, while I briefly address a few considerations to the sober judgment of patriots and statesmen.

I will not now stop to examine the policy of extending our settlements into the wilderness, with the astonishing rapidity which has marked their progress, leaving within our ancient borders an extensive country, unsubdued by the hand of man. This inquiry, although intimately connected with the subject, would too much extend the range of discussion at this late period of the session. I, however, cannot forbear reminding gentlemen, that but few years have elapsed since the opinion was often expressed, and earnestly inculcated by our wisest and best men, that no locations ought to be made beyond the Mississippi, until the original States and Territories should acquire a population of considerable compactness and strength; and that our military posts should not be pushed forward faster than was necessary to protect the frontier settlements. A policy embracing more enlarged ideas, and more magnificent projects, appears to have succeeded. We now talk of forts at the mouth of the Yellow Stone, and military establishments some fifteen or twenty hundred miles in the Indian country, as objects of reasonable and easy achievement. An honorable member from Virginia has this morning presented a petition from sundry inhabitants of that State, praying of Congress permission to settle on Columbia River, between the Rocky Mountains and the Pacific Ocean, probably intending to introduce slavery into the remotest verge of republican territory. I pass over these subjects, however momentous, and well deserving the attention of Congress, and come directly to the points in issue.

First. Has Congress power to require of Missouri a constitutional prohibition against the further introduction of slavery, as a condition of her admission into the Union?

Second. If the power exist, is it wise to exercise it?

Congress has no power unless it be expressly granted by the constitution, or necessary to the execution of some power clearly delegated. What, then, are the grants made to Congress in relation to the Territories? The third section of the fourth article declares, that "the Congress shall have power to dispose of and make all needful rules and regulations respecting the territory, or other property, belonging to the United States." It would be difficult to devise a more comprehensive grant of power. The whole subject is put at the disposal of Congress, as well as the right of judging what regulations are proper to be made, as the power of making them is clearly granted. Until admitted into the Union, this political society is a territory; all the preliminary steps relating to its admission are territorial regulations. Hence, in all such cases, Congress has exercised the power of determining by whom the constitution should be made, how its framers should be elected, when and where they should meet, and what propositions should be submitted to their deci-

sion. After its formation, the Congress examine its provisions, and, if approved, admit the State into the Union, in pursuance of a power delegated by the same section of the constitution, in the following words: "New States may be admitted by the Congress into the Union." This grant of power is evidently alternative; its exercise is committed to the sound discretion of Congress; no injustice is done by declining it. But if Congress has the power of altogether refusing to admit new States, much more has it the power of prescribing such conditions of admission as may be judged reasonable. The exercise of this power, until now, has never been questioned. The act of 1802, under which Ohio was admitted into the Union, prescribed the condition that its constitution should not be repugnant to the ordinance of 1787. The sixth article of that ordinance declares, "there shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted." The same condition was imposed by Congress on the people of Indiana and Illinois. These States have all complied with it, and framed constitutions excluding slavery. Missouri lies in the same latitude. Its soil, productions, and climate are the same, and the same principles of government should be applied to it.

But it is said that, by the treaty of 1803, with the French Republic, Congress is restrained from imposing this condition. The third article is quoted as containing the prohibition. It is in the following words: "The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess." The inhabitants of the ceded territory, when transferred from the protection of the French Republic, in regard to the United States, would have stood in the relation of aliens. The object of the article doubtless was to provide for their admission to the rights of citizens, and their incorporation into the American family. The treaty made no provision for the erection of new States in the ceded territory. That was a question of national policy, properly reserved for the decision of those to whom the constitution had committed the power. The framers of the treaty well knew that the President and Senate could not bind Congress to admit new States into the Union. The unconstitutional doctrine had not then been broached, that the President and Senate could not only purchase a West India island or an African principality, but also impose upon Congress an obligation to make it an independent State, and admit it into the Union. If the President and Senate can, by treaty, change the Constitution of the United States, and rob Congress of a power clearly delegated, the doctrine may be true, but otherwise, it is false. The treaty, therefore, has no operation on the question in debate. Its requirements, however, have been faithfully fulfilled. In 1804, the laws of the United States were extended to that territory. The protection afforded by the Federal Constitution was guaranteed to its inhabitants. They were thus "incorporated in the Union," and secured in the enjoyment of their rights. The treaty stipulation being thus executed, "as soon as possible," it remained a question for the future determination of Congress, whether the Government should remain territorial or become that of an independent State. In 1811, this question was decided in relation to that part of the territory which then embraced nearly all the population, and to acquire which, alone, the treaty had been made. A law was passed to enable the people of the Territory of Orleans to form a constitution and State government, and to provide for its admission into the Union. Did Congress then doubt its power to annex conditions to such admission? No, sir, far from it. The government of Orleans had always been administered according to the principles of the civil law. The common law, so highly valued in other parts of our country, was not recognized there. Trial by jury was unknown to the inhabitants. Instead of a privilege, they considered its introduction an odious departure from their ancient administration of justice. Left to themselves, they never would have introduced it. Congress, however, knowing these things, made it a condition of their admission into the Union, that trial by jury should be secured to the citizen by a constitutional provision.

Even the language of the Territory was required to be changed, as a condition of its admission. The inhabitants were wholly French and Spanish. Theirs were the only languages generally spoken, or even understood. But Congress required from them a constitutional provision, that their legislative and judicial proceedings should be conducted in the English language. They were not left at liberty to determine this point for themselves. From these facts, it appears that Congress, at that day, acted from a conviction that it possessed the power of prescribing the conditions of their admission into the Union.

Gentlemen have said the amendment is in violation of the treaty, because it impairs the property of a master in his slave. Is it then pretended, that, notwithstanding the declaration in our bill of rights, "that all men are created equal," one individual can have a vested property not only in the flesh and blood of his fellow man, but also in generations not yet called into existence? Can it be believed that the supreme Legislature has no power to provide rules and regulations for ameliorating the condition of future ages? And this, too, when the constitution itself has vested in Congress full

sovereignty, by authorizing the enactment of whatever law it may deem conducive to the welfare of the country. The sovereignty of Congress in relation to the States, is limited by specific grants—but, in regard to the Territories, it is unlimited. Missouri was purchased with our money, and, until incorporated into the family of States, it may be sold for money. Can it then be maintained, that although we have the power to dispose of the whole Territory, we have no right to provide against the further increase of slavery within its limits? That, although we may change the political relations of its free citizens by transferring their country to a foreign power, we cannot provide for the gradual abolition of slavery within its limits, nor establish those civil regulations which naturally flow from self-evident truth? No, sir, it cannot; the practice of nations and the common sense of mankind have long since decided these questions.

Having proved, as I apprehend, our right to legislate in the manner proposed, I proceed to illustrate the propriety of exercising it. And here I might rest satisfied with reminding my opponents of their own declarations on the subject of slavery. How often, and how eloquently, have they deplored its existence among them? What willingness, nay, what solicitude have they not manifested to be relieved from this burden? How have they wept over the unfortunate policy that first introduced slaves into this country! How have they disclaimed the guilt and shame of that original sin, and thrown it back upon their ancestors! I have with pleasure heard these avowals of regret, and confided in their sincerity; I have hoped to see its effects in the advancement of the cause of humanity. Gentlemen have now an opportunity of putting their principles into practice; if they have tried slavery and found it a curse; if they desire to dissipate the gloom with which it covers their land; I call upon them to exclude it from the Territory in question; plant not its seeds in this uncorrupt soil; let not our children, looking back to the proceedings of this day, say of them, as they have been constrained to speak of their fathers, "we wish their decision had been different; we regret the existence of this unfortunate population among us; but we found them here: we know not what to do with them; it is our misfortune, we must bear it with patience."

History will record the decision of this day as exerting its influence for centuries to come over the population of half our continent. If we reject the amendment, and suffer this evil, now easily eradicated, to strike its roots so deep in the soil that it can never be removed, shall we not furnish some apology for doubting our sincerity, when we deplore its existence—shall we not expose ourselves to the same kind of censure which was pronounced by the Saviour of mankind upon the Scribes and Pharisees, who builded the tombs of the prophets and garnished the sepulchres of the righteous, and said, if they had lived in the days of their fathers, they would not have been partakers with them in the blood of the prophets, while they manifested a spirit which clearly proved them the legitimate descendants of those who killed the prophets, and thus filled up the measure of their fathers' iniquity?

Mr. Chairman, one of the gentlemen from Kentucky (Mr. CLAY) has pressed into his service the cause of humanity. He has pathetically urged us to withdraw our amendment and suffer this unfortunate population to be dispersed over the country. He says they will be better fed, clothed, and sheltered, and their whole condition will be greatly improved. Sir, true humanity disowns his invocation. The humanity to which he appeals is base coin; it is counterfeit, it is that humanity which seeks to palliate disease by the application of nostrums, which scatter its seeds through the whole system—which saves a finger to day, but amputates the arm to-morrow. Sir, my heart responds to the call of humanity; I will zealously unite in any practicable means of bettering the condition of this oppressed people. I am ready to appropriate a territory to their use, and to aid them in settling it—but I am not willing, I never will consent to declare the whole country west of the Mississippi a market overt for human flesh. In vain will you enact severe laws against the importation of slaves, if you create for them an additional demand, by opening the western world to their employment. While a negro man is bought in Africa for a few gewgaws or a bottle of whiskey, and sold at New Orleans for twelve or fifteen hundred dollars, avarice will stimulate to the violation of your laws. Notwithstanding the penalties and confiscations denounced in your statutes and actually enforced on all detected offenders, the slave trade continues—a vigilant execution of the laws may diminish it, but, while you increase the demand and offer so great temptation to the cupidity of unprincipled men, they will encounter every peril in the prosecution of this unhallowed traffic. The gentleman from Kentucky has intimated his willingness, in addition to the existing penalties upon transgression, to discourage this inhuman commerce by declaring the imported slave to be free. This provision, if established, would in theory provide some remedy for the evil, but in practice it would be found altogether inoperative. A slave is smuggled into the country and by law becomes free; but the fact of importation must be established by witnesses in a court of justice. In non-slaveholding States, all men are presumed free, until the contrary be proved; but, where slavery is established, all black men are presumed slaves, until they are proved free. This presumption alone would generally present to the slave an insuperable obstacle to the successful prosecution of his claim—he moreover would be poor, unfriended, ignorant of our language, and under the watchful eye of those whose interest it would be to allow no communication of his wrongs where redress could be

obtained. The right of freedom might exist, but he would find it impracticable to enforce it, and he probably would have occasion to feel that every effort to break his chains only increase their weight and render his condition the more intolerable.

To the objection that this amendment will, if adopted, diminish the value of a species of property in one portion of the Union, and thereby operate unequally, I reply, that if, by depriving slaveholders of the Missouri market, the business of raising slaves should become less profitable, it would be an effect incidentally produced, but is not the object of the measure. The law prohibiting the importation of foreign slaves was not passed for the purpose of enhancing the value of those then in the country, but that effect has been incidentally produced in a very great degree. So now the exclusion of slavery from Missouri may operate, in some measure, to retard a further advance of prices; but, surely, when gentlemen consider the present demand for their labor, and the extent of country in Louisiana, Mississippi, and Alabama, requiring a supply, they ought not to oppose their exclusion from the territory in question. It is further objected, that the amendment is calculated to disfranchise our brethren of the South, by discouraging their emigration to the country west of the Mississippi. If it were proposed to discriminate between citizens of the different sections of our Union, and allow a Pennsylvanian to hold slaves there while the power was denied to a Virginian, the objection might very properly be made; but, when we place all on an equal footing, denying to all what we deny to one, I am unable to discover the injustice or inequality of which honorable gentlemen have thought proper to complain. The description of emigrants may be affected in some measure, by the amendment in question. If slavery shall be tolerated, the country will be settled by rich planters, with their slaves; if it shall be rejected, the emigrants will chiefly consist of the poorer and more laborious classes of society. If it be true that the prosperity and happiness of a country ought to constitute the grand object of its legislators, I cannot hesitate for a moment which species of population deserves most to be encouraged by the laws we may pass. Gentlemen, in their zeal to oppose the amendment, appear to have considered but one side of the case. If the rejection of slavery will tend to discourage emigration from the South, will not its admission have the same effect in relation to the North and East? Whence came the people who, with a rapidity never before witnessed, have changed the wilderness between the Ohio and Mississippi into fruitful fields; who have erected there, in a period almost too short for the credibility of future ages, three of the freest and most flourishing States in our Union? They came from the eastern hive; from that source of population which, in the same time, has added more than one hundred thousand inhabitants to my native State, and furnished seamen for a large portion of the navigation of the world; seamen who have unfurled your banner in every port to which the enterprise of man has gained admittance, and who, though poor themselves, have drawn rich treasures for the nation from the bosom of the deep. Do you believe that these people will settle in a country where they must take rank with negro slaves? Having neither the ability nor will to hold slaves themselves, they labor cheerfully while labor is honorable; make it disgraceful, they will despise it. You cannot degrade it more effectually than by establishing a system whereby it shall be performed principally by slaves. The business in which they are generally engaged, be it what it may, soon becomes debased in public estimation. It is considered low, and unfit for freemen. I cannot better illustrate this truth than by referring to a remark of the honorable gentleman from Kentucky, (Mr. CLAY.) I have often admired the liberality of his sentiments. He is governed by no vulgar prejudices; yet with what abhorrence did he speak of the performance, by your wives and daughters, of those domestic offices which he was pleased to call servile! What comparison did he make between the "black slaves" of Kentucky and the "white slaves" of the North; and how instantly did he strike a balance in favor of the condition of the former! If such opinions and expressions, even in the ardor of debate, can fall from that honorable gentleman, what ideas do you suppose are entertained of laboring men by the majority of slaveholders? A gentleman from Virginia (Mr. BARBOUR) replies they are treated with confidence and esteem, and their rights are respected. Sir, I did not imagine they were put out of the protection of law. Their persons and property are doubtless secure from violence, or, if injured, the courts of justice are open for their redress. But, in a country like this, where the people are sovereign, and every citizen is entitled to equal rights, the mere exemption from flagrant wrong is no great privilege. In this country, no class of freemen should be excluded, either by law, or by the ostracism of public opinion, more powerful than law, from competing for offices and political distinctions. Sir, a humane master will respect the rights of his slave, and, if worthy, will honor him with confidence and esteem. And this same measure, I apprehend, is dealt out, in slaveholding States, to the laboring class of their white population. But whom of that class have they ever called to fill stations of any considerable responsibility? When have we seen a Representative on this floor, from that section of our Union, who was not a slaveholder? Who but slaveholders are elected to their State Legislatures? Who but they are appointed to fill their executive and judicial offices? I appeal to gentlemen, whether the selection of a laboring man, however well educated, would not be considered an extraordinary event? For this I do not reproach my brethren of the South. They doubtless choose those to represent them in whom they most

confide; and far be it from me to intimate that their confidence is ever misplaced. But my objection is to the introduction of a system which cannot but produce the effect of rendering labor disgraceful.

An argument has been urged by a gentleman from Virginia (Mr. BARBOUR) against the proposed amendment, connected with our revenues. He said that by prohibiting the further introduction of slaves into the proposed State, we should reduce the price and diminish the sales of our public lands. In my opinion, the effect would be precisely the reverse. True, it is, that lands for cultivation have sold higher in Alabama than in Illinois, but this is owing not to the rejection of slavery in the one and its admission into the other, but to the different staples they are capable of producing. The advanced price of cotton has created in market a demand for lands suited to its cultivation, and enhanced their value far beyond any former precedent. But, to test the truth of the position, we must ascertain the relative value of land in adjoining States, the one allowing and the other rejecting slavery, where the climate, soil, productions, and advantages of market are similar. Pennsylvania and Maryland furnish fair specimens of comparison in all these respects. But here the result is in direct opposition to the conjecture of the gentleman from Virginia. Land on the Pennsylvania side of the line, where the power of holding slaves does not exist, uniformly sells at a higher price than lands of equal quality on the Maryland side, where the power is in full exercise. It, therefore, is probable, that the further introduction of slavery into Missouri, far from increasing, would actually diminish the value of our public lands. But, should the fact be otherwise, I entreat gentlemen to consider whether it become the high character of an American Congress to barter the present happiness and future safety of unborn millions for a few pieces of pelf, for a few cents on an acre of land. For myself, I would no sooner contaminate the national Treasury with such ill-gotten gold, than I would tarnish the fame of our national ships by directing their employment in the African slave trade. But, whatever may be the influence of the subject in controversy upon the original price of land, it must be evident to all men of observation that its ultimate and permanent effects are very prejudicial to agricultural improvement. Farms in Maryland, notwithstanding the mildness of its climate compared with New York, I am informed, may be purchased at five or six dollars an acre, while lands by nature not more fertile nor more advantageously situated, in the last-mentioned State, sell at a rate ten times higher. Had not slavery been introduced into Maryland, her numerous and extensive old fields, which now appear to be worse than useless, would long since have supported a dense population of industrious freemen, and contributed largely to the strength and resources of the State. Who has travelled along the line which divides that State from Pennsylvania, and has not observed that no monuments are necessary to mark the boundary; that it is easily traced by following the dividing lines between farms highly cultivated and plantations laying open to the common and overrun with weeds; between stone barns and stone bridges on one side, and stalk cribs and no bridges on the other; between a neat, blooming, animated, rosy-cheeked peasantry on the one side, and a squalid, slow-motioned, black population on the other? Our vote this day will determine which of these descriptions will hereafter best suit the inhabitants of the new world beyond the Mississippi. I entreat gentlemen to pause, and solemnly consider how deeply are involved the destinies of future generations in the decision now to be made. If I agreed in opinion with the gentleman from Georgia, (Mr. COBB,) that this amendment does not present an insurmountable barrier against the further introduction of slavery; that Missouri, after becoming a State, may call a convention, and change this feature of her constitution—even then I should consider the amendment scarcely less important than if it were a fundamental and unalterable compact. On this subject we have experience, and the result has justified the best hopes of our country; while under the government of Congress, slavery was excluded from the Territories, now the States, north of the Ohio. Our power over their municipal regulations has since been withdrawn; they have taken the government into their own hands. But who has not seen the moral effect produced on the inhabitants by the ordinance of 1787? It is as permanent as the soil over which it was established. The exclusion of slavery from all these States is now more effectually insured by public sentiment than by their constitutional prohibitions. Require the government of Missouri to commence right, and the same moral effect will then be produced. No convention of the people will ever permit the future introduction of slaves. Let their political institutions be established in wisdom, and I shall confidently trust in the good sense of the people to direct them hereafter. But, be the event as it may, I at least shall have the satisfaction of reflecting that, if the misfortune of slavery shall be entailed upon this country, every thing in my power will have been done to prevent it.

Mr. Chairman, it was my intention to say something of the moral and political interests involved in this question. But, having already occupied more of your time than was my purpose when I rose to address you, and being admonished by the multiplicity of important bills which, during the few remaining days of the session, demand our attention, I forbear to discuss or even touch upon those parts of the subject. It, moreover, is the less necessary, because those views have often been presented to the public, and have doubtless been seriously considered by every member of this committee.

The facts and arguments to which I have drawn your attention, more particularly relate to our condition as a Federal Republic, and our duties to Missouri, arising from the relation in which she stands to the Union. While regretting that it has not been in my power to do more ample justice to this important subject, owing in part to the unexpected manner in which it was taken up, I cannot sit down without expressing an earnest hope that our present decision may be such as will promote the permanent union, stability, and security of our country.

Mr. FULLER, of Massachusetts, said, that, in the admission of new States into the Union, he considered that Congress had a discretionary power. By the 4th article and 3d section of the constitution, Congress are authorized to admit them; but nothing in that section, or in any part of the constitution, enjoins the admission as imperative under any circumstances. If it were otherwise, he would request gentlemen to point out what were the circumstances or conditions precedent, which being found to exist, Congress must admit the new State. All discretion would in such case be taken from Congress, Mr. F. said, and deliberation would be useless. The honorable Speaker (Mr. CLAY) has said, that Congress has no right to prescribe any condition whatever to the newly organized States, but must admit them by a simple act, leaving their sovereignty unrestricted. [Here the SPEAKER explained—he did not intend to be understood in so broad a sense as Mr. F. stated.] With the explanation of the honorable gentleman, Mr. F. said, I still think his ground as untenable as before. We certainly have a right, and our duty to the nation requires, that we should examine the actual state of things in the proposed State; and, above all, the constitution expressly makes a republican form of government in the several States, a fundamental principle, to be preserved under the sacred guarantee of the National Legislature. [Art. 4, sec. 4.] It clearly, therefore, is the duty of Congress, before admitting a new sister into the Union, to ascertain that her constitution or form of government is republican. Now, sir, the amendment proposed by the gentleman from New York, (Mr. TALLMADGE,) merely requires that slavery shall be prohibited in Missouri. Does this imply any thing more than that its constitution shall be republican? The existence of slavery in any State, is so far a departure from republican principles. The Declaration of Independence, penned by the illustrious statesman then and at this time a citizen of a State which admits slavery, defines the principle on which our National and State constitutions are all professedly founded. The second paragraph of that instrument begins thus: "We hold these truths to be self-evident—that all men are created equal—that they are endowed by their Creator with certain inalienable rights—that among these are life, liberty, and the pursuit of happiness." Since, then, it cannot be denied that slaves are men, it follows that they are in a purely republican government born free, and are entitled to liberty and the pursuit of happiness. [Mr. F. was here interrupted by several gentlemen, who thought it improper to question in debate the republican character of the slaveholding States, which had also a tendency, as one gentleman (Mr. COLSTON of Virginia) said, to deprive those States of the right to hold slaves as property, and he adverted to the probability that there might be slaves in the gallery listening to the debate.] Mr. F. assured the gentleman that nothing was further from his thoughts than to question on that floor the right of Virginia and other States which held slaves when the constitution was established, to continue to hold them. With that subject the National Legislature could not interfere, and ought not to attempt it. But, Mr. F. continued, if gentlemen will be patient, they will see that my remarks will neither derogate from the constitutional rights of the States, nor from a due respect to their several forms of government. Sir, it is my wish to allay not to excite local animosities; but I shall never refrain from advancing such arguments in debate as my duty requires, nor do I believe that the reading of our Declaration of Independence, or a discussion of republican principles on any occasion, can endanger the rights, or merit the disapprobation of any portion of the Union.

My reason, Mr. Chairman, for recurring to the Declaration of our Independence, was to draw from authority admitted in all parts of the Union a definition of the basis of republican government. If then, all men have equal rights, it can no more comport with the principles of a free Government to exclude men of a certain color from the enjoyment of "liberty and the pursuit of happiness," than to exclude those who have not attained a certain portion of wealth, or a certain stature of body; or to found the exclusion on any other capricious or accidental circumstance. Suppose Missouri, before her admission as a State, were to submit to us her constitution, by which no person could elect, or be elected to any office, unless he possessed a clear annual income of twenty thousand dollars; and suppose we had ascertained that only five, or a very small number of persons, had such an estate; would this be any thing more or less than a real aristocracy, under a form nominally republican? Election and representation, which some contend are the only essential principles of republics, would exist only in name—a shadow without substance, a body without a soul. But if all the other inhabitants were to be made slaves, and mere property of the favored few, the outrage on principle would be still more palpable. Yet, sir, it is demonstrable that the exclusion of the black population from all political freedom, and making them the property of the whites, is an equally palpable invasion of right and abandonment of principle. If we do this in the admission of new States, we violate the constitution,

and we have not now the excuse which existed when our national constitution was established. Then, to effect a concert of interests, it was proper to make concessions. The States where slavery existed not only claimed the right to continue it, but it was manifest that a general emancipation of slaves could not be asked of them. Their political existence would have been in jeopardy; both masters and slaves must have been involved in the most fatal consequences.

To guard against such intolerable evils, it is provided in the constitution "that the migration or importation of such persons, as any of the existing States think proper to admit, shall not be prohibited till 1808." Art. 1, sec. 9. And it is provided elsewhere, that persons held to service by the laws of any State, shall be given up by other States to which they may have escaped, &c. Art. 4, sec. 2.

These provisions effectually recognized the right in the States, which, at the time of framing the constitution, held the blacks in slavery, to continue so to hold them, until they should think proper to meliorate their condition. The constitution is a compact among all the States then existing, by which certain principles of government are established for the whole and for each individual State. The predominant principle, in both respects, is, that all men are free, and have an equal right to liberty, and all other privileges; or, in other words, the predominant principle is republicanism, in its largest sense. But, then, the same compact contains certain exceptions. The States then holding slaves are permitted, from the necessity of the case, and for the sake of union, to exclude the republican principle so far, and only so far, as to retain their slaves in servitude, and also their progeny, as had been the usage, until they should think it proper or safe to conform to the pure principle by abolishing slavery. The compact contains on its face the general principle and the exceptions. But the attempt to extend slavery to the new States is in direct violation of the clause which guarantees a republican form of government to all the States. This clause, indeed, must be construed in connection with the exceptions before mentioned; but it cannot, without violence, be applied to any other States than those in which slavery was allowed at the formation of the constitution.

The honorable Speaker cites the first clause in the second section of the fourth article: "The citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States," which he thinks would be violated by the condition proposed in the constitution of Missouri. To keep slaves—to make one portion of the population the property of another, hardly deserves to be called a privilege, since what is gained by the masters must be lost by the slaves. But, independently of this consideration, I think the observations already offered to the committee, showing that holding the black population in servitude is an exception to the general principles of the constitution, and cannot be allowed to extend beyond the fair import of the terms by which that exception is provided, are a sufficient answer to the objection. The gentleman proceeds in the same train of reasoning, and asks, if Congress can require one condition, how many more can be required, and where these conditions will end? With regard to a republican constitution, Congress are obliged to require that condition, and that is enough for the present question; but I contend, further, that Congress has a right, at their discretion, to require any other reasonable condition. Several others were required of Ohio, Indiana, Illinois, and Mississippi. The State of Louisiana, which was a part of the territory ceded to us at the same time with Missouri, was required to provide in her constitution for trials by jury, the writ of habeas corpus, the principles of civil and religious liberty, with several others peculiar to that State. These certainly are, none of them, more indispensable ingredients in a republican form of government, than the equality of privileges of all the population; yet these have not been denied to be reasonable, and warranted by the national constitution in the admission of new States. Nor need gentlemen apprehend that Congress will set no reasonable limits to the conditions of admission. In the exercise of their constitutional discretion on this subject, they are, as in all other cases, responsible to the people. Their power to levy direct taxes is not limited by the constitution. They may lay a tax of one million of dollars, or of a hundred millions, without violating the letter of the constitution; but if the latter enormous and unreasonable sum were levied, or even the former, without evident necessity, the people have the power in their own hands—a speedy corrective is found in the return of the elections. This remedy is so certain, that the representatives of the people can never lose sight of it; and consequently an abuse of their powers, to any considerable extent, can never be apprehended. The same reasoning applies to the exercise of *all* the powers intrusted to Congress, and the admission of new States into the Union is in no respect an exception.

One gentleman, however, has contended against the amendment, because it abridges the rights of the slaveholding States to transport their slaves to the new States for sale or otherwise. This argument is attempted to be enforced in various ways, and particularly by the clause in the constitution last cited. It admits, however, of a very clear answer, by recurring to the ninth section of article first, which provides, that "the migration or importation of such persons as any of the States then existing shall admit, shall not be prohibited by Congress till 1808." This clearly implies that the *migration* and importation may be prohibited *after* that year. The importation has been prohibited, but the migration has not hitherto been

restrained; Congress, however, may restrain it when it may be judged expedient. It is, indeed, contended by some gentlemen, that migration is either synonymous with importation, or that it means something different from the transportation of slaves from one State to another. It certainly is not synonymous with *importation*, and would not have been used if it had been so. It cannot mean *exportation*, which is also a definite and precise term. It cannot mean the reception of *free* blacks from foreign countries, as is alleged by some, because no possible reason existed for regulating their admission by the constitution; no free blacks ever came from Africa, or any other country, to this; and to introduce the provision by the side of that for the importation of slaves would have been absurd in the highest degree. What alternative remains but to apply the term "migration" to the transportation of slaves from those States where they are admitted to be held, to other States? Such a provision might have in view a very natural object. The price of slaves might be affected so far by a sudden prohibition to transport slaves from State to State, that it was as reasonable to guard against that inconvenience, as against the sudden interdiction of the importation. Hitherto it has not been found necessary for Congress to prohibit migration or transportation from State to State. But now it becomes the right and duty of Congress to guard against the further extension of the intolerable evil and the crying enormity of slavery.

The expediency of this measure is very apparent. The opening of an extensive slave market will tempt the cupidity of those who otherwise perhaps might gradually emancipate their slaves. We have heard much, Mr. Chairman, of the Colonization Society; an institution which is the favorite of the humane gentlemen in the slaveholding States. They have long been lamenting the miseries of slavery, and earnestly seeking for a remedy compatible with their own safety and the happiness of their slaves. At last the great desideratum is found—a colony in Africa for the emancipated blacks. How will the generous intentions of these humane persons be frustrated, if the price of slaves is to be doubled by a new and boundless market! Instead of emancipation of the slaves, it is much to be feared that unprincipled wretches will be found kidnapping those who are already free, and transporting and selling the hapless victims into hopeless bondage. Sir, I really hope that Congress will not contribute to discountenance and render abortive the generous and philanthropic views of this most worthy and laudable society. Rather let us hope that the time is not very remote when the shores of Africa, which have so long been a scene of barbarous rapacity and savage cruelty, shall exhibit a race of free and enlightened people, the offspring indeed of cannibals or of slaves, but displaying the virtues of civilization and the energies of independent freemen. America may then hope to see the development of a germ, now scarcely visible, cherished and matured under the genial warmth of our country's protection, till the fruit shall appear in the regeneration and happiness of a boundless continent.

One argument still remains to be noticed. It is said that we are bound by the treaty of cession with France to admit the ceded territory into the Union, "as soon as possible." It is obvious that the President and Senate, the treaty-making power, cannot make a stipulation with any foreign nation in derogation of the constitutional powers and duties of this House, by making it imperative on us to admit the new territory according to the literal tenor of the phrase; but the additional words in the treaty, "according to the principles of the constitution," put it beyond all doubt that no such compulsory admission was intended, and that the republican principles of our constitution are to govern us in the admission of this, as well as all the new States, in the national family.

Mr. P. P. BARBOUR, of Virginia, said that, as he was decidedly opposed to the amendment which had been offered, he asked the indulgence of the House whilst he made some remarks in addition to those which had fallen from the Speaker, for the purpose of showing the impropriety of its adoption.

The effect of the proposed amendment is to prohibit the further introduction of slaves into the new State of Missouri, and to emancipate, at the age of twenty-five years, the children of all those slaves who are now within its limits. The first objection, said he, which meets us at the very threshold of the discussion, is this, that we have no constitutional right to enact the proposed provision. Our power, in relation to this subject, is derived from the first clause of the third section of the fourth article of the constitution, which is in these words: "New States may be admitted, by the Congress, into this Union." Now, sir, although, by the next succeeding clause of the same section, "Congress has the power to make all needful rules and regulations respecting the territory of the United States;" and although, therefore, whilst the proposed State continued a part of our territory, upon the footing of a Territorial government, it would have been competent for us, under the power expressly given, to make needful rules and regulations—to have established the principle now proposed; yet, the question assumes a totally different aspect when that principle is intended to apply to a State. This term State has a fixed and determinate meaning; in itself it imports the existence of a political community, free and independent, and entitled to exercise all the rights of sovereignty, of every description whatever. As it stands in the constitution, it is to be defined with some limitation upon that principle of construction which has reference to the subject-matter. The extent of the limitation, according to this rule, is obviously this, that it shall enjoy all those rights of sovereignty which belong to the original States

which composed the Federal family, and into a union with which it is to be admitted. Now, sir, although the original States are shorn of many of their beams of sovereignty—such, for example, as that of declaring war, of regulating commerce, &c.; yet we know that, even by an express amendment to the constitution, all powers not expressly delegated are reserved to the States respectively; and of course the power in question, of deciding whether slavery shall or shall not exist. Gentlemen had said that slavery was prohibited in many of the original States. Does not the House, said Mr. B., at the first glance, perceive the answer to this remark? It is an argument from fact to principle, and in this its utter fallacy consists. It is true that slavery does not exist in many of the original States; but why does it not? Because they themselves, in the exercise of their legislative power, have willed that it shall be so. But, though it does not now exist, it is competent for them, by a law of their own enactment, to authorize it—to call it into existence whenever they shall think fit. Sir, how different would be the situation of Missouri, if the proposed amendment be adopted. We undertake to say that slavery never shall be introduced into that State. The State of Missouri, then, would obviously labor under this disadvantage in relation to the other States; that, though for the time being the fact might be the same in it as in them—that is to say, slavery might be alike prohibited, and not at all exist, yet, as the prohibition of it in other States was repealable at their own will, it might be altered whensoever they chose; whereas, if this prohibition were enacted by Congress, and were required as a *sine qua non* to their admission into the Union, that State could not repeal it, unless, indeed, another opinion was correct, which had been advanced, that, though we did require this provision in their constitution, as indispensable to their admission, yet they might forthwith change their constitution, and get rid of the difficulty. If that be the case, sir, as has been justly remarked, we were doing worse than nothing to legislate upon the subject. But, sir, this provision would be in violation of another principle of the constitution, to be found in the first clause of the second section of the fourth article; by which it is declared that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." Now, he would ask, whether a citizen of the State of Missouri, who (if this amendment prevail) cannot hold a slave, could, in the language of the section which he had just quoted, be said to enjoy the same privileges with a citizen of Virginia who now may hold a slave, or even with a citizen of Pennsylvania, who, though he cannot now hold one, yet may be permitted by the Legislature of his own State. Sir, it would be a solecism in language, a contradiction in terms. This part of the constitution, then, also forbids the adoption of the amendment under discussion.

But, said he, if we pursue this reasoning still further, and follow it up to all the consequences to which it will lead, we shall be more forcibly struck with its impropriety. If we have a right to go one step in relation to a new State, beyond the footing upon which the original States stand; if we have a right to shear them of one beam more of sovereignty, we have the same right to take from them any other attribute of sovereign power. Thus, sir, we should equally possess the power to require as an indispensable condition of their admission, that the departments of their Government should be organized in a particular way; for example, that their Chief Executive Magistrate should or should not have either a complete or a qualified veto upon the acts of their Legislature; that their Legislature should consist either of one or two chambers, as in our discretion we thought right. Would gentlemen advocate this doctrine? If they did not, they must abandon this amendment. Again, if we had the power to say that their constitution should provide that there should not be slavery, we had the same power over the converse of the proposition, and to require them to provide that there should be slavery; he believed this latter principle would not be contended for.

Gentlemen had, on this occasion, as on many others, quoted precedents of former Congresses upon this subject. He would enter his most solemn protest now, and at all times, against the force of legislative precedent. But let us examine them. It is said that the like prohibition has been enacted as it respects Ohio and the other States northwest of the river Ohio. In the first place, the House would recollect that an ordinance was passed by the old Congress, at a period anterior to the present constitution, ordaining that as a fundamental article in relation to all the northwest territory, and therefore the precedent, if it would otherwise have any weight, failed in its application. But, he said, he did not hesitate to express it as his decided opinion, that the ordinance which he had just mentioned was utterly void, and, consequently, that those States might introduce slavery amongst them, if they so willed, because the territory which composes them originally belonged to Virginia. She had conquered it by her arms; she ceded it to the United States upon the express condition that it should be formed into States as free, sovereign, and independent as the other States. The prohibition of slavery was ordained by the Continental Congress, after the cession had been made, which would unquestionably render those States less sovereign than the original States of the Federal Union. But it has been said that we imposed conditions on the admission of the State of Louisiana into the Union. What were those conditions? That civil and religious liberty should be established, and the trial by jury secured. It cannot be necessary to remind the House, that these several provisions attached also to the original States, by the most explicit

declaration to that effect, in the first, fifth, and seventh amendments to the Constitution of the United States. These requisitions, then, were in perfect consistency with his principle. All that he contended for was, that we could impose no condition upon the new States which the constitution had not imposed upon the old ones; as those which were imposed upon Louisiana were clearly of that description, they were within our power; but, as the prohibition of slavery was not of that description, he thought it was as clearly beyond our power. The gentleman from Massachusetts had said that it was competent to the State Legislatures to declare that the progeny of all slaves should be free when they attained a given age; and hence he inferred that Congress might do the same in relation to the proposed State. Sir, said Mr. B., there is no sort of analogy between the cases; the State Legislatures can do it, because to them appertains the whole business of municipal legislation, and this regulation would be embraced within it; and Congress could do the same, in relation to its Territorial governments, because over them we possess the whole power of municipal legislation; not so in the present case; for the question now before us, is not what regulation we shall prescribe for a territory which is to continue as such, but upon what forms and conditions we will admit a State into the Union. Our business is, then, to create a political community of a particular character, as prescribed by the constitution; to itself it will belong to regulate its interior concerns, and, amongst others, to decide whether it will or will not admit involuntary servitude.

Mr. B. said he had endeavored to show that we had no power to require the condition embraced in this amendment; he would now beg leave to present to the House some other views of the subject, for the purpose of showing that, if it were within our power, we were forbidden from exercising it, by every consideration of humanity, of justice, and sound policy. Upon the subject of humanity, he had scarcely any thing to add to what had been said by the Speaker; he had shown, in the most satisfactory manner, that the condition of the slaves would be greatly improved by their being spread over a greater surface, and by being carried to a country whose fertility was such as to furnish food and every thing necessary for their maintenance in a much more abundant, and, consequently, cheaper degree, than could be produced in the Atlantic States.

But, as it respected the justice of the measure, he would beg leave to submit some remarks to the House. Throughout all the Southern States, it was well known a very large portion of the population consisted of slaves, who, at the same time, stood towards the white population of the same States in the relation of property; although they were held as property, yet they were considered and treated as the most valuable, as the most favored property; their masters remembered that they were men, and although certainly degraded in the scale of society, by reason of their servitude, we felt for them those sympathies which bind one man to another, though that other may be our inferior. We were attached to them, too, by our prejudices, by our education and habits; in short, such were the feelings of the Southern people towards their slaves, that nothing scarcely but the necessity of the master, or the crime of the slave, would induce him to sell his slave. If the master emigrated, he would carry his slaves with him, not only for the various reasons which he had already stated, but because, going into a wilderness, where much labor was necessary to clear the country, they were, on that account, peculiarly necessary. Under these circumstances, a prohibition of the importation of slaves would, in almost every instance, be tantamount to a prohibition of the emigration of the Southern people to the State of Missouri. He asked whether it could be just to adopt such a regulation as would open an illimitable tract of the most fertile land to the northern part of the United States, and, in effect, entirely shut out the whole Southern people? If it were correct in relation to Missouri, it would be equally so as to the whole tract of country lying west of the Mississippi. He hoped, from this view of the subject, the House would be struck with its monstrous injustice.

But he came now to the question of policy, and he thought he should be able to show that, in this respect, the amendment would meet as decided reprobation as in any other aspect in which he had presented it.

Let it be remembered that we are not now called upon to decide whether slavery shall be introduced into this country; it existed at the formation of the constitution, and was recognized by that instrument, in reference both to representation and taxation. Nor, sir, are we called upon to decide whether there shall be an increase of the number of our slaves by importation from abroad. The constitution authorized Congress to prohibit the importation of them after the year 1808, and Congress, accordingly, have actually passed a law to that effect. But the real question is, what disposition shall we make of those slaves who are already in the country? Shall they be perpetually confined on this side of the Mississippi, or shall we spread them over a much larger surface by permitting them to be carried beyond that river? The consequences which would flow from the different systems would furnish a satisfactory answer to these inquiries. The slaves, in the Southern States, bear a very considerable proportion to the whole population. He believed that by the last census, they were, in Virginia, as about three hundred and ninety thousand to about five hundred thousand. He did not mean to be arithmetically correct, but he was sufficiently so, for the conclusion which he meant to draw. Now, sir, in relation to the physical force of the country, if ever the time shall come when we

shall be engaged in war, and they should be excited to insurrection, it is obvious that there must be an immense subduction from the efficiency of the slaveholding section of our country; its actual efficiency would consist only, or nearly so, in the excess of the white beyond the black population; by spreading them over a more extended surface, you secure these advantages; first, by diminishing the proportion which the slaves bear in point of numbers to the whites, you diminish their motives to insurrection; secondly, that if that event ever should occur, it would obviously be much more easily and certainly suppressed, because, upon the supposition which he had made, they would have a much smaller relative proportion of physical force. He thanked God he felt no alarm upon that subject at present; and that he slept quietly in his bed, notwithstanding the apprehension which some gentlemen seemed to entertain. But, in making the remarks which he did, he looked along the line of time, and wished that our measures should be adapted to the future circumstances of our country. Again, he would ask if it can be good policy to perpetuate fixed boundaries, either natural or artificial, between the slaveholding and non-slaveholding States? He had thought that the great object of our Federal compact was union. The surest possible mode of securing our political union, next to promoting the common defence and general welfare, is to give, as far as possible, every facility to the intercourse between the different sections of this extensive Republic; that, by the attrition which will be the result of that intercourse, the asperities of our mutual prejudices and jealousies may be rubbed off; that the face of our society may present the smooth surface of harmony and good will; and, in short, that we may be knit together by a sympathy of feelings, by a community of habits and manners which ought to bind us together as brothers of the same great political family. Already is the northern part of our country, together with that northwest of the river Ohio, divided from us by those distinguishing names of slaveholding and non-slaveholding. Let us not make the Mississippi another great natural boundary, for the purpose of perpetuating the same distinctions, and dividing our country into castes. Gentlemen mistake when they suppose that, if slaves be permitted to be carried to Missouri, the Northern people will not emigrate to that State. Look at the fact in the Southern States; the Northern hive is continually pouring forth its swarms of emigrants, and many of them, especially of the mercantile class, alight and settle amongst us; they soon become familiar with our habits and modes of life, prosper in an eminent degree, far beyond our own people, and, indeed, he hesitated not to say, were entirely satisfied and happy, although they were in a slaveholding State. Gentlemen equally mistake, when they suppose that their countrymen of the North, who are obliged to labor, would be degraded to a level with the slaves. Sir, our experience proves the contrary. We, too, have some of our citizens who are unable to purchase slaves, and who, therefore, till the ground with their own hands. But, sir, notwithstanding this, they have all that erectness of character which belongs to them as freemen, conscious of their political and civil rights; and he who should dare to treat them with disrespect, because fortune had not poured as much wealth into their laps as into his, would draw down upon him the execration of all good men.

Another effect of this amendment would be, in an essential degree, to affect the value of the countless millions of public lands beyond the Mississippi. He said he had already endeavored to show that it would obstruct the emigration from the Southern States. Precisely in proportion as it produced this effect, it would, of course, lessen the number of purchasers, and diminish the competition. Now, if the quantity of land in the market be the same, and the number of purchasers be diminished, the consequence must certainly be a reduction of the price of the public lands below what would otherwise be their natural level; and to place this in a more striking point of view, he would further remark, that the *loss* which the whole people of the United States would sustain by the reduction in the price of the public lands, would be *profit* to that portion of the people who should emigrate there, and who, by the operation of the proposed amendment, if it should prevail, would have monopoly in the purchase. A gentleman from Massachusetts had objected, that, if slaves were permitted to be carried into this country, there would be a much greater increase than if they were retained in the States in which they now are. Does the gentleman, said Mr. B., perceive to what point this objection will carry him? The only reason why they will multiply more on the western than on the eastern side of the Mississippi is, that food is more abundant. Surely it cannot be the object of the gentleman, who is one of the most zealous advocates of humanity towards this unhappy class of people, to prevent their increase, even by shutting them out from food. If this cannot be the gentleman's intention, and he was sure it could not, then he must abandon his objection. Mr. B. said there was one other objection which he would urge against the proposed amendment—either it would be an act of supererogation or of downright injustice, to the people of Missouri; if they were themselves opposed to slavery, then it would be an act of supererogation, because they would prohibit it by their own legislation; if they were disposed to establish slavery, then it would be an act of injustice, because we should be legislating directly against the wishes of a people who were competent to legislate for themselves; and who must better understand their own happiness and welfare than we can possibly do. Upon the whole, said Mr. B., I believe, that we have no power to

enact the proposed amendment; and that, if we had, it would be highly impolitic and unjust. I am, therefore, decidedly opposed to its adoption.

Mr. LIVERMORE spoke as follows: Mr. Chairman, I am in favor of the proposed amendment. The object of it is to prevent the extension of slavery over the territory ceded to the United States by France. It accords with the dictates of reason, and the best feelings of the human heart, and is not calculated to interrupt any legitimate right arising either from the constitution or any other compact. I propose to show what slavery is, and to mention a few of the many evils which follow in its train; and I hope to evince that we are not bound to tolerate the existence of so disgraceful a state of things beyond its present extent, and that it would be impolitic and very unjust to let it spread over the whole face of our Western territory. Slavery in the United States is the condition of man subjected to the will of a master, who can make any disposition of him short of taking away his life. In those States where it is tolerated, laws are enacted, making it penal to instruct slaves in the art of reading, and they are not permitted to attend public worship, or to hear the Gospel preached. Thus the light of science and of religion is utterly excluded from the mind, that the body may be more easily bowed down to servitude. The bodies of slaves may, with impunity, be prostituted to any purpose, and deformed in any manner by their owners. The sympathies of nature in slaves are disregarded; mothers and children are sold and separated; the children wring their little hands and expire in agonies of grief, while the bereft mothers commit suicide in despair. How long will the desire of wealth render us blind to the sin of holding both the bodies and souls of our fellow-men in chains! But, sir, I am admonished of the constitution, and told that we cannot emancipate slaves. I know we may not infringe that instrument, and therefore do not propose to emancipate slaves. The proposition before us goes only to prevent our citizens from making slaves of such as have a right to freedom. In the present slaveholding States let slavery continue, for our boasted constitution connives at it; but do not, for the sake of cotton and tobacco, let it be told to future ages that, while pretending to love liberty, we have purchased an extensive country to disgrace it with the foulest reproach of nations. Our constitution requires no such thing of us. The ends for which that supreme law was made are succinctly stated in its preface. They are, first, to form a more perfect union, and insure domestic tranquillity. Will slavery effect this? Can we, sir, by mingling bond with free, black spirits with white, like Shakspeare's witches in Macbeth, form a more perfect union, and insure domestic tranquillity? Secondly, to establish justice. Is justice to be established by subjecting half mankind to the will of the other half? Justice, sir, is blind to colors, and weighs in equal scales the rights of all men, whether white or black. Thirdly, to provide for the common defence, and secure the blessings of liberty. Does slavery add any thing to the common defence? Sir, the strength of a Republic is in the arm of freedom. But, above all things, do the blessings of liberty consist in slavery? If there is any sincerity in our profession, that slavery is an ill, tolerated only from necessity, let us not, while we feel that ill, shun the cure which consists only in an honest avowal that liberty and equal rights are the end and aim of all our institutions, and that to tolerate slavery beyond the narrowest limits prescribed for it by the constitution, is a perversion of them all.

Slavery, sir, I repeat, is not established by our constitution; but a part of the States are indulged in the commission of a sin from which they could not at once be restrained, and which they would not consent to abandon. But, sir, if we could, by any process of reasoning, be brought to believe it justifiable to hold others to involuntary servitude, policy forbids that we should increase it. Even the present slaveholding States have an interest, I think, in limiting the extent of involuntary servitude; for, should slaves become much more numerous, and, conscious of their strength, draw the sword against their masters, it will be to the free States that the masters must resort for an efficient power to suppress servile insurrection. But we have made a treaty with France, which, we are told, can only be preserved by the charms of slavery.

Sir, said Mr. L., until the ceded territory shall have been made into States, and the new States admitted into the Union, we can do what we will with it. We can govern it as a province, or sell it to any other nation. A part of it is probably at this time sold to Spain, and the inhabitants of it may soon not only enjoy the comforts of slavery, but the blessings of the holy inquisition along with them. The question is on the admission of Missouri as a State into the Union. Surely it will not be contended that we are bound by the treaty to admit it. The treaty-making power does not extend so far. Can the President and Senate, by a treaty with Great Britain, make the province of Lower Canada a State of this Union? To be received as a State into this Union, is a privilege which no country can claim as a right. It is a favor to be granted or not, as the United States may choose. When the United States think proper to grant a favor, they may annex just and reasonable terms; and what can be more reasonable than for these States to insist that a new Territory, wishing to have the benefits of freedom extended to it, should renounce a principle that militates with justice, morality, religion, and every essential right of mankind? Louisiana was admitted into the Union on terms. The conditions, I admit, were not very important, but still they recognize the principles for which I contend.

An opportunity is now presented, if not to

diminish, at least to prevent, the growth of a sin which sits heavy on the soul of every one of us. By embracing this opportunity, we may retrieve the national character, and, in some degree, our own. But if we suffer it to pass unimproved, let us at least be consistent, and declare that our constitution was made to impose slavery, and not to establish liberty. Let us no longer tell idle tales about the gradual abolition of slavery; away with colonization societies, if their design is only to rid us of free blacks and turbulent slaves; have done also with Bible societies, whose views are extended to Africa and the East Indies, while they overlook the deplorable condition of their sable brethren within our own borders; make no more laws to prohibit the importation of slaves, for the world must see that the object of such laws is alone to prevent the glutting of a prodigious market for the flesh and blood of man, which we are about to establish in the West, and to enhance the price of sturdy wretches, reared like black cattle and horses for sale on our own plantations.

The question being put on the motion of Mr. TALLMADGE to amend the bill, the vote was—for the amendment 79, against it 67.

So the amendment was agreed to.

TUESDAY, February 16.

Admission of Missouri — Restriction on the State.

The House proceeded to the consideration of the amendments reported by the Committee of the Whole, to the bill authorizing the people of the Territory of Missouri to form a constitution and State government, and for the admission of the same into the Union.

The whole of the amendments made in Committee of the Whole were agreed to, with the exception of that which prohibits slavery or involuntary servitude in the proposed State.

On this question, the debate which commenced yesterday was renewed, and prosecuted with considerable spirit—Mr. SCOTT, Mr. COLSTON, Mr. TALLMADGE, Mr. STORRS, Mr. TAYLOR, Mr. SIMPKINS, Mr. MILLS, Mr. SPENCER, Mr. HOLMES, Mr. BARBOUR, Mr. CAMPBELL of Ohio, Mr. BUTLER of Louisiana, Mr. TERRY, and Mr. BEECHER, taking part in it.

Mr. SCOTT, of Missouri, said, he trusted that his conduct, during the whole of the time in which he had the honor of a seat in the House, had convinced gentlemen of his disposition not to obtrude his sentiments on any other subjects than those in which the interest of his constituents, and of the Territory he represented, were immediately concerned. But when a question, such as the amendments proposed by the gentlemen from New York, (Messrs. TALLMADGE and TAYLOR,) was presented for consideration, involving constitutional principles to a vast amount, pregnant with the future fate of the Territory, portending destruction to the liberties of that people, directly bearing on their rights of property, their State rights, their all, he should consider it as a dereliction of his duty, as a retreating from his post, nay, double criminality, did he not raise his voice against their adoption. After the many able and luminous views that had been taken of this subject, by the Speaker of the House and other honorable gentlemen, he had not the vanity to suppose that any additional views which he could offer, or any new dress in which he could clothe those already advanced, would have the happy tendency of inducing any gentleman to change his vote. But, if he stood single on the question, and there was no man to help him, yet, while the laws of the land and the rules of the House guaranteed to him the privilege of speech, he would redeem his conscience from the imputation of having silently witnessed a violation of the constitution of his country, and an infringement on the liberties of the people who had intrusted to his feeble abilities the advocation of their rights. He desired, at this early stage of his remarks, in the name of the citizens of Missouri Territory, whose rights on other subjects had been too long neglected and shamefully disregarded, to enter his solemn protest against the introduction, under the insidious form of amendment, of any principle in this bill, the obvious tendency of which would be to sow the seeds of discord in, and perhaps eventually endanger, the Union.

Mr. S. entertained the opinion that, under the constitution, Congress had not the power to impose this or any other restriction, or to require of the people of Missouri their assent to this condition, as a prerequisite to their admission into the Union. He contended this from the language of the constitution itself; from the practice in the admission of new States under that instrument; and from the express terms of the treaty of cession. The short view he intended to take of those points, would, he trusted, be satisfactory to all those who were not so anxious to usurp power as to sacrifice to its attainment the principles of our Government, or who were not desirous of prostrating the rights and independence of a State to chimerical views of policy or expediency. The authority to admit new States into the Union, was granted in the third section of the fourth article of the constitution, which declared that "new States may be admitted by the Congress into the Union." The only power given to the Congress by this section, appeared to him to be that of passing a law for the admission of the new State, leaving it in possession of all the rights, privileges, and immunities, enjoyed by the other States; the most valuable and prominent of which was that of forming and modifying their own State constitution, and over which Congress had no superintending control, other than that expressly given in the fourth section of the same article, which read, "the United States shall guarantee to every State in this Union, a republican form of government." This end accomplished, the guardianship of the

United States over the constitution of the several States was fulfilled; and all restrictions, limitations, and conditions, beyond this, was so much power unwarrantably assumed. In illustration of this position, he would read an extract from one of the essays, written by the late President Madison, contemporaneously with the Constitution of the United States, and from a very celebrated work:

"In a confederacy founded on republican principles, and composed of republican members, the superintending government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations. The more intimate the nature of such a union may be, the greater interest have the members in the political institutions of each other, and the greater right to insist that the forms of government, under which the compact was entered into, should be substantially maintained. But this authority extends no farther than to a guarantee of a republican form of government, which supposes a pre-existing government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States, they are guaranteed by the Federal Constitution. Whenever the States may choose to substitute other republican forms, they have a right to do so, and to claim the federal guarantee for the latter. The only restriction imposed on them is, that they shall not exchange republican for anti-republican constitutions; a restriction which, it is presumed, will hardly be considered as a grievance."

Mr. S. thought that those two clauses, when supported by such high authority, had they been the only ones in the constitution which related to the powers of the General Government over the States, and particularly at their formation and adoption into the Union, could not but be deemed satisfactory to a reasonable extent; but there were other provisions in the constitution, to which he would refer, that beyond all doubt, to his mind, settled the question. One of those was the tenth article in the amendments, which said that "the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." He believed that, by common law and common usage, all grants giving certain defined and specific privileges or powers, were to be so construed as that no others should be intended to be given but such as were particularly enumerated in the instruments themselves, or indispensably necessary to carry into effect those designated. In no part of the constitution was the power proposed to be exercised, of imposing conditions on a new State, given, either in so many words, or by any justifiable or fair inference; nor in any portion of the constitution was the right prohibited to the respective States, to regulate their own internal police, of admitting such citizens as they pleased, or of introducing any description of property that they should consider as essential or necessary to their prosperity; and the framers of that instrument seem to have been zealous lest, by implication or by inference, powers might be assumed by the General Government over the States and people, other than those expressly given; hence they reserve, in so many terms, to the States and the people, all powers not delegated to the Federal Government. The ninth article of the amendments to the constitution, still further illustrated the position he had taken; it read, that "the enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people." Mr. S. believed it to be a just rule of interpretation, that the enumeration of powers delegated to Congress weakened their authority in all cases not enumerated; and that beyond those powers enumerated, they had none, except they were essentially necessary to carry into effect those that were given. The second section of the fourth article of the constitution, which declared that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States," was satisfactory, to his judgment, that it was intended the citizens of each State, forming a part of one harmonious whole, should have, in all things, equal privileges; the necessary consequence of which was, that every man, in his own State, should have the same rights, privileges, and powers, that any other citizen of the United States had in his own State; otherwise, discontent and murmurings would prevail against the General Government, who had deprived him of this equality.

For example, if the citizens of Pennsylvania or Virginia enjoyed the right, in their own State, to decide the question whether they would have slavery or not, the citizens of Missouri, to give them the same privileges, must have the same right to decide whether they would or would not tolerate slavery in their State; if it were otherwise, then the citizens of Pennsylvania and Virginia would have more rights, privileges, and powers, in their respective States, than the citizens of Missouri would have in theirs. Mr. S. said he would make another quotation from the same work he had before been indebted to, which he believed had considerable bearing on this question: "The powers delegated by the proposed constitution to the Federal Government are few and defined; those which are to remain in the State governments are numerous and indefinite; the former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce—with which last the powers of taxation will, for the most part, be connected. The powers reserved to the several States, will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State." The applicability of this doctrine to the question under consideration was so obvious, that he would not detain the House to give examples, but leave it for gentlemen to make the application. He would, however, make one other reference to the constitution

before he proceeded to speak of the practice under it; in the second section of that instrument, it was provided that "representatives and direct taxes shall be apportioned among the several States, which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons." This provision was not restricted to the States then formed, and about to adopt the constitution, but to all those States which might be included within this Union, clearly contemplating the admission of new States thereafter, and providing that to them also should this principle of representation and taxation equally apply. Nor could he subscribe to the construction, that, as this part of the constitution was matter of compromise, it was to be limited, in its application, to the original States only, and not to be extended to all those States that might, after its adoption, become members of the Federal Union; and a practical exposition had been made by Congress of this part of the constitution, in the admission of Kentucky, Louisiana, and Mississippi, as States, all of whom were slaveholding States, and to each of them this principle had been extended.

Mr. S. believed that the practice under the constitution had been different from that now contended for by gentlemen; he was unapprised of any similar provision having ever been made, or attempted to be made, in relation to any other new State heretofore admitted. The argument drawn from the States formed out of the territory northwest of the Ohio River he did not consider as analogous; that restriction, if any, was imposed in pursuance of a compact, and only, so far as Congress could do, carried into effect the disposition of Virginia in reference to a part of her own original territory, and was, in every respect more just, because that provision was made and published to the world at a time when but few, if any, settlements were formed within that tract of country; and the children of those people of color belonging to the inhabitants then there have been, and still were, held in bondage, and were not free at a given age, as was contemplated by the amendment under consideration; nor did he doubt but that it was competent for any of those States, admitted in pursuance of the ordinance of 1787, to call a convention, and so alter their constitution as to allow of the introduction of slaves, if they thought proper to do so. To those gentlemen who had in their arguments, in support of the amendments, adverted to the instance where Congress had, by the law authorizing the people of Louisiana, to form a constitution and State government, exercised the power of imposing the terms and conditions on which they should be permitted to do so, he would recommend the careful examination and comparison of those terms with the Constitution of the United States, when, he doubted not, they would be convinced that these restrictions were only such as were in express and positive language defined in the latter instrument, and would have been equally binding on the people of Louisiana, had they not have been enumerated in the law giving them authority to form a constitution for themselves.

Mr. S. said he considered the contemplated conditions and restrictions, contained in the proposed amendments, to be unconstitutional and unwarrantable, from the provisions of the treaty of cession, by the third article of which it was stipulated, that "the inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities, of citizens of the United States, and, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

This treaty having been made by the competent authority of Government, ratified by the Senate, and emphatically sanctioned by Congress in the acts making appropriations to carry it into effect, became a part of the supreme law of the land, and its bearings on the rights of the people had received a practical exposition by the admission of the State of Louisiana, part of the same territory, and acquired by the same treaty of cession, into the Union. It was in vain for gentlemen to tell him that, by the terms of the treaty of cession, the United States were not bound to admit any part of the ceded territory into the Union as a State; the evidence of the obligation Congress considered they were under, to adopt States formed out of that territory, is clearly deducible from the fact, that they had done so in the instance of Louisiana. But had no State been admitted, formed of a part of the territory acquired by that treaty, the obligation of the Government to do so would not be the less apparent to him. "The inhabitants of the ceded territory shall be incorporated in the Union of the United States." The people were not left to the wayward discretion of this, or any other Government, by saying that they may be incorporated in the Union. The language was different and imperative: "they shall be incorporated." Mr. S. understood by the term incorporated, that they were to form a constituent part of this Republic; that they were to become joint partners in the character and councils of the country, and in the national losses and national gains; as a territory, they were not an essential part of the Government; they were a mere province, subject to the acts and regulations of the General Government in all cases whatsoever. As a territory, they had not all the rights, advantages, and immunities, of citizens of the United States. Mr. S. himself furnished an example, that, in their present condition, they had not all the rights of the other citizens of

the Union. Had he a vote in this House? and yet these people were, during the war, subject to certain taxes imposed by Congress. Had those people any voice to give in the imposition of taxes to which they were subject, or in the disposition of the funds of the nation, and particularly those arising from the sales of the public lands to which they already had, and still would largely contribute? Had they a voice to give in selecting the officers of this Government, or many of their own? In short, in what had they equal rights, advantages, and immunities with the other citizens of the United States, but in the privilege to submit to a procrastination of their rights, and in the advantage to subscribe to your laws, your rules, your taxes, and your powers, even without a hearing? Those people were also "to be admitted into the Union as soon as possible."

Mr. S. would infer from this expression, that it was the understanding of the parties, that so soon as any portion of the territory, of sufficient extent to form a State, should contain the number of inhabitants required by law to entitle them to a Representative on the floor of this House, that they then had the right to make the call for admission, and this admission, when made, was to be, not on conditions that gentlemen might deem expedient—not on conditions referable to future political views, not on conditions that the constitution the people should form, should contain a clause that would particularly open the door for emigration from the North or from the South, not on condition that the future population of the State should come from a slaveholding or non-slaveholding State—"but according to the principles of the Federal Constitution," and none other. The people of Missouri were, by solemn treaty stipulation, when admitted, to enjoy all the rights, advantages, and immunities, of citizens of the United States. Can any gentleman contend, that, laboring under the proposed restriction, the citizens of Missouri would have all the rights, advantages, and immunities, of other citizens of the Union? Have not other new States, in their admission, and have not all the States in the Union, now, privileges and rights beyond what was contemplated to be allowed to the citizens of Missouri? Have not all other States in this Government the right to alter, modify, amend, and change their State constitution, having regard alone to a republican form? And was there any existing law, or any clause in the Federal Constitution, that prohibited a total change from a slaveholding to a non-slaveholding State, or from a non-slaveholding to a slaveholding State? Mr. S. thought, that, if this provision was proper, or within the powers of Congress, they also had the correlative right to say, that the people of Missouri should not be admitted as a State, unless they provided, in the formation of their State constitution, that slavery should be tolerated. Would not those conscientious gentlemen startle at this, and exclaim, *What*, impose on those people slaves, when they do not want them! This would be said to be a direct attack on the State independence. Was it in the power of Congress to annex the present condition, Mr. S. deemed it equally within the scope of their authority to say, what color the inhabitants of the proposed State should be, what description of property, other than slaves, those people should or should not possess, and the quantity of property each man should retain, going upon the Agrarian principle. He would even go further, and say, that Congress had an equal power to enact to what religion the people should subscribe; that none other should be professed, and to provide for the excommunication of all those who did not submit.

The people of Missouri were, if admitted into the Union, to come in on an equal footing with the original States. That the people of the other States had the right to regulate their own internal police, to prescribe the rules of their own conduct, and, in the formation of their constitutions, to say whether slavery was or was not admissible, he believed was a point conceded by all. How, then, were the citizens of Missouri placed on an equal footing with the other members of the Union? Equal in some respects—a shameful discrimination in others. A discrimination not warranted by the constitution, or justified by the treaty of cession, but founded on mistaken zeal, or erroneous policy. They were to be bound down by onerous conditions, limitations, and restrictions, to which he knew they would not submit. That people were brave and independent in spirit, they were intelligent, and knew their own rights; they were competent of self-government, and willing to risk their own happiness and future prosperity on the legitimate exercise of their own judgment and free will. Mr. S. protested against such a guardianship as was contemplated now to be assumed over his constituents. The spirit of freedom burned in the bosoms of the freemen of Missouri, and if admitted into the national family, they would be equal, or not come in at all. With what an anxious eye have they looked to the East, since the commencement of this session of Congress, for the good tidings, that on them you had conferred the glorious privilege of self-government and independence. What seeds of discord will you sow, when they read this suspicious, shameful, unconstitutional inhibition in their charter? Will they not compare it with the terms of the treaty of cession—that bill of their rights, emphatically their *magna charta?* And will not the result of that comparison be a stigma on the faith of this Government? It had been admitted by some gentlemen in debate, that, were the people of Missouri to form a constitution conforming to this provision, so soon as they were adopted into the Union it would be competent for them to call a convention and alter their constitution on this subject. Why, then, he would ask gentlemen, would they legislate, when they could produce no permanent practical effect? Why expose

the imbecility of the General Government, to tie up the hands of the State, and induce the people to an act of chicanery, which he knew from principle they abhorred, to get clear of an odious restriction on their rights? Mr. S. had trusted that gentlemen who professed to be actuated by motives of humanity and principle would not encourage a course of dissimulation, or, by any vote of theirs, render it necessary for the citizens of Missouri to act equivocally to obtain their right. He was unwilling to believe, that political views alone led gentlemen on this or any other occasion; but, from the language of the member from New York, (Mr. TAYLOR,) he was compelled to suspect that they had their influence upon him. That gentleman has told us, that if ever he left his present residence, it would be for Illinois or Missouri; at all events, he wished to send out his brothers and his sons. Mr. S. begged that gentleman to relieve him from the awful apprehension excited by the prospect of this accession of population. He hoped the House would excuse him while he stated, that he did not desire that gentleman, his sons, or his brothers, in that land of brave, noble, and independent freemen. The member says that the latitude is too far north to admit of slavery there. Would the gentleman cast his eye on the map before him, he would there see, that a part of Kentucky, Virginia, and Maryland, were as far north as the northern boundary of the proposed State of Missouri. Mr. S. would thank the gentleman if he would condescend to tell him what precise line of latitude suited his conscience, his humanity, or his political views, on this subject. Could that member be serious when he made the parallel of latitude the measure of his good will to those unfortunate blacks? Or was he trying how far he could go in fallacious argument and absurdity without creating one blush, even on his own cheek, for inconsistency? What, starve the negroes, pen them up in the swamps and morasses, confine them to southern latitudes, to long scorching days of labor and fatigue, until the race becomes extinct, that the fair land of Missouri may be tenanted by that gentleman, his brothers, and his sons? He expected from a majority of the House a more liberal policy, and better evidence that they really were actuated by humane motives.

Mr. S. said he would trouble the House no longer; he thanked them for the attention and indulgence already bestowed; but he desired to apprise gentlemen, before he sat down, that they were sowing the seeds of discord in this Union, by attempting to admit States with unequal privileges and unequal rights; that they were signing, sealing, and delivering their own death warrant; that the weapon they were so unjustly wielding against the people of Missouri, was a two-edged sword. From the cumulative nature of power, the day might come when the General Government might, in turn, undertake to dictate to them on questions of internal policy; Missouri, now weak and feeble, whose fate and murmurs would excite but little alarm or sensibility, might become an easy victim to motives of policy, party zeal, or mistaken ideas of power; but other times and other men would succeed; a future Congress might come, who, under the sanctified forms of constitutional power, would dictate to them odious conditions; nay, inflict on their internal independence a wound more deep and dreadful than even this to Missouri. The House had seen the force of the precedent, in the mistaken application of the conditions imposed on the people of Louisiana anterior to their admission into the Union. And, whatever might be the ultimate determination of the House, Mr. S. considered this question big with the fate of Cæsar and of Rome.

Mr. TALLMADGE, of New York, rose.—Sir, said he, it has been my desire and my intention to avoid any debate on the present painful and unpleasant subject. When I had the honor to submit to this House the amendment now under consideration, I accompanied it with a declaration, that it was intended to confine its operation to the newly acquired territory across the Mississippi; and I then expressly declared that I would in no manner intermeddle with the slaveholding States, nor attempt manumission in any one of the original States in the Union. Sir, I even went further, and stated that I was aware of the delicacy of the subject, and that I had learned from Southern gentlemen the difficulties and the dangers of having free blacks intermingling with slaves; and, on that account, and with a view to the safety of the white population of the adjoining States, I would not even advocate the prohibition of slavery in the Alabama Territory; because, surrounded as it was by slaveholding States, and with only imaginary lines of division, the intercourse between slaves and free blacks could not be prevented, and a *servile* war might be the result. While we deprecate and mourn over the evil of slavery, humanity and good morals require us to wish its abolition, under circumstances consistent with the safety of the white population. Willingly, therefore, will I submit to an evil which we cannot safely remedy. I admitted all that had been said of the danger of having free blacks visible to slaves, and therefore did not hesitate to pledge myself that I would neither advise nor attempt coercive manumission. But, sir, all these reasons cease when we cross the banks of the Mississippi, a newly acquired territory, never contemplated in the formation of our Government, not included within the compromise or mutual pledge in the adoption of our constitution, a new territory acquired by our common fund, and ought justly to be subject to our common legislation.

Sir, when I submitted the amendment now under consideration, accompanied with these explanations, and with these avowals of my intentions and of my motives, I did expect that gentlemen who might differ from me in opin-

ion would appreciate the liberality of my views, and would meet me with moderation, as upon a fair subject for general legislation. Sir, I did expect at least that the frank declaration of my views would protect me from harsh expressions, and from the unfriendly imputations which have been cast out on this occasion. But, sir, such has been the character and the violence of this debate, and expressions of so much intemperance, and of an aspect so threatening have been used, that continued silence on my part would ill become me, who had submitted to this House the original proposition. While this subject was under debate before the Committee of the Whole, I did not take the floor, and I avail myself of this occasion to acknowledge my obligations to my friends, (Messrs. TAYLOR and MILLS,) for the manner in which they supported my amendment, at a time when I was unable to partake in the debate. I had only on that day returned from a journey long in its extent, and painful in its occasion; and, from an affection of my breast, I could not then speak; I cannot yet hope to do justice to the subject, but I do hope to say enough to assure my friends that I have not *left* them in the controversy, and to convince the opponents of the measure, that their violence has not driven me from the debate.

Sir, the honorable gentleman from Missouri, (Mr. SCOTT,) who has just resumed his seat, has told us of the *ides of March*, and has cautioned us to "*beware of the fate of Cæsar and of Rome.*" Another gentleman, (Mr. COBB,) from Georgia, in addition to other expressions of great warmth, has said, "that, if we persist, the Union will be dissolved;" and, with a look fixed on me, has told us, "we had kindled a fire which all the waters of the ocean cannot put out, which seas of blood can only extinguish."

Sir, language of this sort has no effect on me; my purpose is fixed, it is interwoven with my existence, its durability is limited with my life, it is a great and glorious cause, setting bounds to a slavery the most cruel and debasing the world ever witnessed; it is the freedom of man; it is the cause of unredeemed and unregenerated human beings.

Sir, if a dissolution of the Union must take place, let it be so! If civil war, which gentlemen so much threaten, must come, I can only say, let it come! My hold on life is probably as frail as that of any man who now hears me; but, while that hold lasts, it shall be devoted to the service of my country—to the freedom of man. If blood is necessary to extinguish any fire which I have assisted to kindle, I can assure gentlemen, while I regret the necessity, I shall not forbear to contribute my mite. Sir, the violence to which gentlemen have resorted on this subject will not move my purpose, nor drive me from my place. I have the fortune and the honor to stand here as the representative of freemen, who possess intelligence to know their rights, who have the spirit to maintain them. Whatever might be my own private sentiments on this subject, standing here as the representative of others, no choice is left me. I know the will of my constituents, and, regardless of consequences, I will avow it; as their representative, I will proclaim their hatred to slavery in every shape; as their representative, here will I hold my stand, until this floor, with the constitution of my country which supports it, shall sink beneath me. If I am doomed to fall, I shall at least have the painful consolation to believe that I fall, as a fragment, in the ruins of my country.

Sir, the gentleman from Virginia (Mr. COLSTON) has accused my honorable friend, from New Hampshire, (Mr. LIVERMORE,) of "speaking to the galleries, and, by his language, endeavoring to excite a servile war;" and has ended by saying, "he is no better than Arbuthnot or Ambrister; and deserves no better fate." Sir, when I hear such language uttered upon this floor, and within this House, I am constrained to consider it as hasty and unintended language, resulting from the vehemence of debate, and not really intending the personal indecorum the expressions would seem to indicate. [Mr. COLSTON asked to explain, and said he had not distinctly understood Mr. T. Mr. LIVERMORE called on Mr. C. to state the expressions he had used. Mr. C. then said he had no explanation to give.] Mr. TALLMADGE said he had none to ask; he continued to say, he would not believe any gentleman on this floor would commit so great an indecorum against any member, or against the dignity of the House, as to use such expressions, really intending the meaning which the words seemed to import, and which had been uttered against the gentleman from New Hampshire. [Mr. NELSON, of Virginia, in the chair, called to order, and said no personal remarks would be allowed.] Mr. T. said he rejoiced that the Chair was at length aroused to a sense of its duties. The debate had, for several days, progressed with unequalled violence, and all was in order; but now, when at length this violence on one side is to be resisted, the Chair discovered it is out of order. I rejoice, said Mr. T., at the discovery, approve of the admonition, while I am proud to say, it has no relevancy to me. It is my boast that I never uttered an unfriendly personal remark on this floor, but I wish it distinctly understood that the immutable laws of self-defence will justify going to great lengths, and that, in the future progress of this debate, the rights of defence would be regarded.

Sir, has it already come to this, that in the Congress of the United States—that, in the legislative councils of republican America, the subject of slavery has become a subject of so much feeling—of such delicacy—of such danger, that it cannot safely be discussed? Are members who venture to express their sentiments on this subject to be accused of talking to the galleries, with intent to excite a servile war; and of meriting the fate of Arbuthnot and Ambrister? Are we to be told of the dissolution

of the Union; of civil war, and of seas of blood? And yet, with such awful threatenings before us, do gentlemen, in the same breath, insist upon the encouragement of this evil; upon the extension of this monstrous scourge of the human race? An evil so fraught with such dire calamities to us as individuals, and to our nation, and threatening, in its progress, to overwhelm the civil and religious institutions of the country, with the liberties of the nation, ought at once to be met, and to be controlled. If its power, its influence, and its impending dangers have already arrived at such a point that it is not safe to discuss it on this floor, and it cannot now pass under consideration as a proper subject for general legislation, what will be the result when it is spread through your widely extended domain? Its present threatening aspect, and the violence of its supporters, so far from inducing me to yield to its progress, prompts me to resist its march. Now is the time. It must now be met, and the extension of the evil must now be prevented, or the occasion is irrecoverably lost, and the evil can never be contracted.

Sir, extend your view across the Mississippi, over your newly acquired territory; a territory so far surpassing in extent the limits of your present country, that that country which gave birth to your nation, which achieved your Revolution, consolidated your Union, formed your constitution, and has subsequently acquired so much glory, hangs but as an appendage to the extended empire over which your republican Government is now called to bear sway. Look down the long vista of futurity. See your empire, in extent unequalled; in advantageous situation without a parallel; and occupying all the valuable part of our continent. Behold this extended empire, inhabited by the hardy sons of American freemen—knowing their rights, and inheriting the will to protect them—owners of the soil on which they live, and interested in the institutions which they labor to defend—with two oceans laving your shores, and tributary to your purposes, bearing on their bosoms the commerce of your people. Compared to yours, the Governments of Europe dwindle into insignificance, and the whole world is without a parallel. But, sir, reverse this scene; people this fair dominion with the slaves of your planters; extend slavery—this bane of man, this abomination of heaven—over your extended empire, and you prepare its dissolution; you turn its accumulated strength into positive weakness; you cherish a canker in your breast; you put poison in your bosom; you place a vulture on your heart—nay, you whet the dagger and place it in the hands of a portion of your population, stimulated to use it, by every tie, human and divine. The envious contrast between your happiness and their misery, between your liberty and their slavery, must constantly prompt them to accomplish your destruction. Your enemies will learn the source and the cause of your weakness. As often as internal dangers shall threaten, or internal commotions await you, you will then realize, that, by your own procurement, you have placed amidst your families, and in the bosom of your country, a population producing at once the greatest cause of individual danger and of national weakness. With this defect, your Government must crumble to pieces, and your people become the scoff of the world.

Sir, we have been told, with apparent confidence, that we have no right to annex conditions to a State on its admission into the Union; and it has been urged that the proposed amendment, prohibiting the further introduction of slavery, is unconstitutional. This position, asserted with so much confidence, remains unsupported by any argument, or by any authority derived from the constitution itself. The constitution strongly indicates an opposite conclusion, and seems to contemplate a difference between the old and the new States. The practice of the Government has sanctioned this difference in many respects.

The third section of the fourth article of the constitution says, "new States may be admitted by the Congress into this Union," and it is silent as to the terms and conditions upon which the new States may be so admitted. The fair inference from this silence is, that the Congress which might admit should prescribe the time and the terms of such admission. The tenth section of the first article of the constitution says, "the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808." The words "now existing" clearly show the distinction for which we contend. The word *slave* is nowhere mentioned in the constitution, but this section has always been considered as applicable to them, and unquestionably reserved the right to prohibit their importation into any new State before the year 1808.

Congress, therefore, have power over the subject, probably as a matter of legislation, but more certainly has a right, to prescribe the time and the condition upon which any new State may be admitted into the family of the Union. Sir, the bill now before us proves the correctness of my argument. It is filled with conditions and limitations. The territory is required to take a census, and is to be admitted only on condition that it have forty thousand inhabitants. I have already submitted amendments preventing the State from taxing the lands of the United States, and declaring all navigable waters shall remain open to the other States, and be exempt from any tolls or duties. And my friend (Mr. TAYLOR) has submitted amendments prohibiting the State from taxing soldiers' lands for the period of five years. And to all these amendments we have heard no objection; they have passed unanimously. But now, when an amendment prohibiting the further introduction of slavery is proposed, the whole House is put in agitation,

and we are confidently told that it is unconstitutional to annex conditions on the admission of a new State into the Union. The result of all this is, that all amendments and conditions are proper, which suit a certain class of gentlemen, but whatever amendment is proposed, which does not comport with their interest or their views, is unconstitutional, and a flagrant violation of this sacred charter of our rights. In order to be consistent, gentlemen must go back and strike out the various amendments to which they have already agreed. The constitution applies equally to all, or to none.

Sir, we have been told that this is a new principle for which we contend, never before adopted, or thought of. So far from this being correct, it is due to the memory of our ancestors to say, it is an old principle, adopted by them, as the policy of our country. Whenever the United States have had the right and the power, they have heretofore prevented the extension of slavery. The States of Kentucky and Tennessee were taken off from other States, and were admitted into the Union without condition, because their lands were never owned by the United States. The Territory northwest of the Ohio is all the land which ever belonged to them. Shortly after the cession of those lands to the Union, Congress passed, in 1787, a compact which was declared to be unalterable, the sixth article of which provides that "there shall be *neither slavery nor involuntary servitude* in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted." In pursuance of this compact, all the States formed from that territory have been admitted into the Union upon various considerations, and among which the sixth article of this compact is included as one.

Let gentlemen also advert to the law for the admission of the State of Louisiana into the Union: they will find it filled with conditions. It was required not only to form a constitution upon the principles of a republican government, but it was required to contain the "fundamental principles of civil and religious liberty." It was even required, as a condition of its admission, to keep its records and its judicial and legislative proceedings in the English language; and also to secure the trial by jury, and to surrender all claim to unappropriated lands in the territory, with the prohibition to tax any of the United States lands.

After this long practice and constant usage to annex conditions to the admission of a State into the Union, will gentlemen yet tell us it is unconstitutional, and talk of our principles being novel and extraordinary? It has been said that, if this amendment prevails, we shall have a union of States possessing unequal rights. And we have been asked, whether we wished to see such a "chequered union?" Sir, we have already such a Union. If the prohibition of slavery is the denial of a right, and constitutes a chequered union, gladly would I behold such rights denied, and such a chequer spread over every State in the Union. It is now spread over the States northwest of the Ohio, and forms the glory and the strength of those States. I hope it will be extended from the Mississippi River to the Pacific Ocean.

Sir, we have been told that the proposed amendment cannot be received, because it is contrary to the treaty and cession of Louisiana. "Article 3. The inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess." I find nothing, said Mr. T., in this article of the treaty, incompatible with the proposed amendment. The rights, advantages, and immunities of citizens of the United States are guaranteed to the inhabitants of Louisiana. If one of them should choose to remove into Virginia, he could take his slaves with him; but if he removes to Indiana, or any of the States northwest of the Ohio, he cannot take his slaves with him. If the proposed amendment prevails, the inhabitants of Louisiana or the citizens of the United States can neither of them take slaves into the State of Missouri. All, therefore, may enjoy equal privileges. It is a disability, or what I call a blessing, annexed to the particular district of country, and in no manner attached to the individual. But, said Mr. T., while I have no doubt that the treaty contains no solid objection against the proposed amendment, yet if it did, it would not alter my determination on the subject. The Senate, or the treaty-making power of our Government, have neither the right nor the power to stipulate, by a treaty, the terms upon which a people shall be admitted into the Union. This House have a right to be heard on the subject. The admission of a State into the Union is a legislative act, which requires the concurrence of all the departments of legislative power. It is an important prerogative of this House, which I hope will never be surrendered. The zeal and the ardor of gentlemen, in the course of this debate, has induced them to announce to this House, that, if we persist and force the State of Missouri to accede to the proposed amendment, as the condition of her admission into the Union, she will disregard it, and, as soon as admitted, will alter her constitution, and introduce slavery into her territory. Sir, I am not now prepared, nor is it necessary to determine what would be the consequence of such a violation of faith—of such a departure from the fundamental condition of her admission into the Union. I would not cast upon a people so foul an imputation as to believe they would be guilty of such fraudulent duplicity. The States northwest of the Ohio have all regarded the faith and the condition

of their admission; and there is no reason to believe the people of Missouri will not also regard theirs. But, sir, whenever a State, admitted into the Union, shall disregard and set at naught the fundamental condition of its admission, and shall, in violation of all faith, undertake to levy a tax upon the lands of the United States, or a toll upon their navigable waters, or introduce slavery, where Congress have prohibited it, then it will be in time to determine the consequence. But, sir, if the threatened consequences were known to be the certain result, yet would I insist upon the proposed amendment. The declaration of this House, the declared will of the nation, to prohibit slavery, would produce its moral effect, and stand as one of the brightest ornaments of our country. Sir, it has been urged, with great plausibility, that we should spread the slaves now in our country, and thus spread the evil, rather than confine it to its present districts. It has been said, we should thereby diminish the dangers from them, while we increase the means of their living, and augment their comforts. But, sir, you may rest assured that this reasoning is fallacious, and that, while slavery is admitted, the market will be supplied. Our coast, and its contiguity to the West Indies and the Spanish possessions, render easy the introduction of slaves into our country. Our laws are already highly penal against their introduction, and yet it is a well-known fact, that about fourteen thousand slaves have been brought into our country this last year.

Sir, since we have been engaged in this debate, we have witnessed an elucidation of this argument, of bettering the condition of slaves by spreading them over the country. A slave driver, a trafficker in human flesh, as if sent by Providence, has passed the door of your Capitol, on his way to the West, driving before him about fifteen of these wretched victims of his power. The males, who might raise the arm of vengeance, and retaliate for their wrongs, were handcuffed, and chained to each other, while the females and children were marched in their rear, under the guidance of the driver's whip! Yes, sir, such has been the scene witnessed from the windows of Congress Hall, and viewed by members who compose the legislative councils of Republican America!

Sir, in the course of the debate on this subject, we have been told that, from the long habit of the Southern and Western people, the possession of slaves has become necessary to them, and an essential requisite in their living. It has been urged, from the nature of the climate and soil of the Southern countries, that the lands cannot be occupied or cultivated without slaves. It has been said that the slaves prosper in those places, and that they are much better off there than in their own native country. We have even been told that, if we succeed, and prevent slavery across the Mississippi, we shall greatly lessen the value of property there, and shall retard, for a long series of years, the settlement of that country.

Sir, said Mr. T., if the Western country cannot be settled without slaves, gladly would I prevent its settlement till time shall be no more. If this class of arguments is to prevail, it sets all morals at defiance, and we are called to legislate on the subject, as a matter of mere personal interest. If this is to be the case, repeal all your laws prohibiting the slave trade; throw open this traffic to the commercial States of the East; and if it better the condition of these wretched beings, invite the dark population of benighted Africa to be translated to the shores of Republican America. But, sir, I will not cast upon this, or upon that gentleman an imputation so ungracious as the conclusion to which their arguments would necessarily tend. I do not believe any gentleman on this floor could here advocate the slave trade, or maintain, in the abstract, the principles of slavery. I will not outrage the decorum, nor insult the dignity of this House, by attempting to argue in this place, as an abstract proposition, the moral right of slavery. How gladly would the "legitimates of Europe chuckle" to find an American Congress in debate on such a question!

As an evil brought upon us without our own fault, before the formation of our Government, and as one of the sins of that nation from which we have revolted, we must of necessity legislate upon this subject. It is our business so to legislate, as never to encourage, but always to control this evil; and, while we strive to eradicate it, we ought to fix its limits, and render it subordinate to the safety of the white population, and the good order of civil society.

Sir, on this subject the eyes of Europe are turned upon you. You boast of the freedom of your constitution and your laws; you have proclaimed, in the Declaration of Independence, "That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that amongst these are life, liberty, and the pursuit of happiness;" and yet you have slaves in your country. The enemies of your Government, and the legitimates of Europe, point to your inconsistencies, and blazon your supposed defects. If you allow slavery to pass into Territories where you have the lawful power to exclude it, you will justly take upon yourself all the charges of inconsistency; but, confine it to the original slaveholding States, where you found it at the formation of your Government, and you stand acquitted of all imputation.

Sir, this is a subject upon which I have great feeling for the honor of my country. In a former debate upon the Illinois constitution, I mentioned that our enemies had drawn a picture of our country, as holding in one hand the Declaration of Independence, and with the other brandishing a whip over our affrighted slaves. I then made it my boast that we could cast back upon England the accusation, and that she had committed the original sin of bringing slaves

into our country. Sir, I have since received, through the post office, a letter, post marked in South Carolina, and signed "*A native of England*," desiring that, when I again had occasion to repeat my boast against England, I would also state that she had atoned for her original sin, by establishing in her slave colonies a system of humane laws, ameliorating their condition, and providing for their safety, while America had committed the secondary sin of disregarding their condition, and had even provided laws by which it was not murder to kill a slave. Sir, I felt the severity of the reproof; I felt for my country. I have inquired on the subject, and I find such were formerly the laws in some of the slaveholding States; and that even now, in the State of South Carolina, by law, the penalty of death is provided for stealing a slave, while the murder of a slave is punished by a trivial fine. Such, sir, is the contrast and the relative value which is placed, in the opinion of a slaveholding State, between the property of the master and the life of a slave.

Sir, gentlemen have undertaken to criminate and to draw odious contrasts between different sections of our country; I shall not combat such arguments; I have made no pretence to exclusive morality on this subject, either for myself or my constituents; nor have I cast any imputations on others. On the contrary, I hold, that mankind under like circumstances are alike, the world over. The vicious and the unprincipled are confined to no district of country; and it is for this portion of the community we are bound to legislate. When honorable gentlemen inform us we overrate the cruelty and the dangers of slavery, and tell us that their slaves are happy and contented, and would even contribute to their safety, they tell us but very little; they do not tell us, that while their slaves are happy, the slaves of some depraved and cruel wretch, in their neighborhood, may not be stimulated to revenge, and thus involve the country in ruin. If we had to legislate only for such gentlemen as are now embraced within my view, a law against robbing the mail would be a disgrace upon the nation; and, as useless, I would tear it from the pages of your statute book; yet sad experience has taught us the necessity of such laws; and honor, justice, and policy teach us the wisdom of legislating to limit the extension of slavery.

Sir, in the zeal to draw sectional contrasts, we have been told by one gentleman, that gentlemen from one district of country talk of their religion and their morality, while those of another practise it. And the superior liberality has been asserted of Southern gentlemen over those of the North, in all contributions to moral institutions, for Bible and missionary societies. Sir, I understand too well the pursuit of my purpose to be decoyed and drawn off into the discussion of a collateral subject. I have no inclination to controvert these assertions of comparative liberality. Although I have no idea they are founded in fact, yet, because it better suits the object of my present argument, I will, on this occasion, admit them to the fullest extent. And what is the result? Southern gentlemen, by their superior liberality in contributions to moral institutions, justly stand in the first rank, and hold the first place in the brightest page of the history of the country. But, turn over this page, and what do you behold? You behold them contributing to teach the doctrines of Christianity in every quarter of the globe. You behold them legislating to secure the ignorance and stupidity of their own slaves! You behold them prescribing, by law, penalties against the man that dares teach a negro to read. Such, sir, is the statute law of the State of Virginia. [Mr. BASSETT and Mr. TYLER said that there was no such law in Virginia.] No, sir, said Mr. T., I have mis-spoken myself; I ought to have said, such is the statute law of the State of Georgia. Yes, sir, while we hear of a liberality which civilizes the savages of all countries, and carries the Gospel alike to the Hottentot and the Hindoo, it has been reserved for the Republican State of Georgia, not content with the care of its overseers, to legislate to secure the oppression and the ignorance of their slaves. The man who there teaches a negro to read is liable to a criminal prosecution. The dark benighted beings of all creation profit by our liberality—save those on our own plantations. Where is the missionary who possesses sufficient hardihood to venture a residence to teach the slaves of a plantation? Here is the stain! Here is the stigma! Which fastens upon the character of our country; and which, in the appropriate language of the gentleman from Georgia, (Mr. COBB,) all the waters of the ocean cannot wash out; which seas of blood can only take away.

Sir, there is yet another and an important point of view in which this subject ought to be considered. We have been told by those who advocate the extension of slavery into the Missouri, that any attempt to control this subject by legislation is a violation of that faith and mutual confidence upon which our Union was formed and our constitution adopted. This argument might be considered plausible, if the restriction was attempted to be enforced against any of the slaveholding States, which had been a party in the adoption of the constitution. But it can have no reference or application to a new district of country recently acquired, and never contemplated in the formation of the Government, and not embraced in the mutual concessions and declared faith upon which the constitution was adopted. The constitution provides that the Representatives of the several States to this House shall be according to their numbers, including three-fifths of the slaves in the respective States. This is an important benefit yielded to the slaveholding States, as one of the mutual sacrifices for the Union. On this subject, I consider the faith of the Union pledged, and I never would attempt coercive manumission in a slaveholding State.

But none of the causes which induced the sacrifice of this principle, and which now produce such an unequal representation of the free population of the country, exist as between us and the newly acquired territory across the Mississippi. That portion of country has no claims to such an unequal representation, unjust in its results upon the other States. Are the numerous slaves in extensive countries, which we may acquire by purchase, and admit as States into the Union, at once to be represented on this floor, under a clause of the constitution, granted as a compromise and a benefit to the Southern States which had borne part in the Revolution? Such an extension of that clause in the constitution would be unjust in its operations, unequal in its results, and a violation of its original intention. Abstract from the moral effects of slavery, its political consequences in the representation under this clause of the constitution demonstrate the importance of the proposed amendment.

Sir, I shall bow in silence to the will of the majority, on whichever side it shall be expressed; yet I confidently hope that majority will be found on the side of an amendment, so replete with moral consequences, so pregnant with important political results.

After a long debate on the subject, the question was taken on agreeing to the first member of the proposed amendment, in the following words:

"That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall have been duly convicted."

Which question was determined in the affirmative—yeas 87, nays 76, as follows:

YEAS.—Messrs. Adams, Allen, Anderson of Pennsylvania, Barber of Ohio, Bateman, Beecher, Bennett, Boden, Campbell, Clagett, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kinsey, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of R. Island, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Mosely, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Sherwood, Silsbee, Southard, Spencer, Tallmadge, Taylor, Terry, Tompkins, Townsend, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania—87.

NAYS.—Messrs. Abbott, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bassett, Bayley, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Cobb, Colston, Cook, Cruger, Culbreth, Davidson, Desha, Edwards, Ervin of South Carolina, Fisher, Garnett, Hall of North Carolina, Harrison, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Middleton, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Reed, Rhea, Ringgold, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, S. Smith, Bal. Smith, Alex. Smyth, J. S. Smith, Speed, Stewart of N. Carolina, Stewart of Maryland, Storrs, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, and Williams of North Carolina—76.

The question was then taken on agreeing to the second member of the said amendment, which is in the following words:

"And that all children born within the said State, after the admission thereof into the Union, shall be free at the age of twenty-five years."

On which question the vote was, by yeas and nays—for the second part 82; against it 78.

So the whole of the amendments, as proposed by Mr. TALLMADGE, were agreed to.

Some other amendments having been made to the bill—

Mr. STORRS moved to strike out so much of the bill as says that the new State shall be admitted into the Union "on an equal footing with the original States." After the vote just taken, Mr. S. said, there was a manifest inconsistency in retaining this provision.

The motion was negatived.

The question on ordering the bill to be engrossed for a third reading was then decided in the affirmative—yeas 97, nays 56.

The bill was then ordered to be read a third time to-morrow.

WEDNESDAY, February 17.

Arkansas Territory—Restriction of Slavery.

The House then resolved itself into a Committee of the Whole, on the bill to provide a Territorial government for the southern part (the Arkansas country) of the Missouri Territory.*

Mr. TAYLOR, of New York, moved to amend the bill by inserting a clause (similar to that incorporated, on the motion of Mr. TALLMADGE, in the Missouri bill) to prohibit the existence of slavery in the new Territory.

This motion gave rise to a wide and long-continued debate, covering part of the ground previously occupied on this subject, but differing in part, as the present proposition was to impose a condition on a *Territorial* government, instead of, as in the former case, to enjoin the

* The territory of Missouri had included the Arkansas country, besides extending north and west to the Rocky Mountains and the British line. In erecting a State government for Missouri, it was necessary to curtail these great boundaries, and Arkansas having some population, and requiring some government, was to be formed into a separate Territory. For this purpose the Arkansas bill was brought in at the same time with the Missouri State bill, and that bill being lost between the two Houses on account of the proposed restriction on the State, the same was now attempted on the Arkansas territorial bill.

adoption of the principle in the constitution of a *State*, and as it applied to a more southern Territory.

Mr. TAYLOR, of New York, in rising, said he regretted being obliged to vote on this bill with so scanty information. The select committee which reported it, had laid on our table no statement of facts—no census showing the different kinds of population in the territory, nor even the aggregate of all descriptions. The situation and condition of existing settlements are as little known. It, however, is generally understood that the climate and soil are suited to the culture of wheat, corn, cotton, and tobacco. The delegate from Missouri now informs me that the number of inhabitants, exclusive of Indians, may be estimated at 20,000, of which one-tenth are probably slaves. Mr. T. said he was unwilling to allow the introduction of any more slaves: it could not be necessary for agricultural purposes. All the productions before mentioned, could be brought to perfection, and raised in abundance, by freemen. Cotton, and tobacco, for exportation, had been chiefly produced by the slaveholding States. But is it not reasonable, asked Mr. T., that at least one small portion of our country, capable of growing these staples, should be left open to the enterprise and industry of the North and East. He saw no good reason why that portion of the Union which he had the honor, in part, to represent, should be excluded from participating in this valuable species of agriculture. That such would be the effect of allowing a free introduction of slaves, he had fully demonstated to the committee when the bill for the admission of Missouri into the Union was under consideration. Mr. T. said it must be evident from the present ratio of population, as stated by the delegate from Missouri, that the labor of the territory was now performed chiefly by freemen. He hoped this state of things might not only continue, but improve. He, therefore, could not consent to render labor disgraceful—to connect it in public sentiment, with servility, and thereby degrade the condition of laboring men.

The gentleman from Kentucky (Mr. CLAY) has asked, said Mr. T., what the people of the South have done, that they are to be proscribed, and had expressed his deep regret at the introduction of this amendment. We, sir, said Mr. T., do not proscribe them; we leave them in the full enjoyment of all their rights; we only forbid them to practise wrongs: we invite them to the territory in question, but we forbid their bringing into it a population which cannot but prove its misfortune and curse; a population which, if once introduced, will fasten like an incubus upon all its energies, and from which it can never be relieved.

I regret, said Mr. T., the pertinacity with which gentlemen maintain their opposition. To my mind the amendment is both reasonable and necessary; and, if the welfare of the territory were alone consulted, I should entertain no doubt of its adoption by an almost universal vote. But other interests are to be protected; and it is said that, as the country was purchased with our common fund, it ought to inure to the common benefit. This, said Mr. T., may be considered a truism; but, unfortunately for the argument of the gentleman who adduced it, it has no application to the case before us. If it were proposed that the proceeds of the public lands in Arkansas should be appropriated to the use of the commonwealth of Massachusetts, the objection would have weight. But, said Mr. T., nothing like it is contemplated. The money to arise from the sale of lands in that territory, as in all others, will go into the National Treasury, and be expended on national objects.

The gentleman from Kentucky (Mr. CLAY) has charged us, said Mr. T., with being under the influence of negrophobia. Sir, he mistook his mark. I thank God that the disease mentioned by that gentleman, is unknown to my constituents; and it is because I wish to exclude it from Arkansas, that I have moved this amendment. But, sir, the excitement which this motion has produced, too clearly shows that the negrophobia does unhappily prevail in another section of this country; that it haunts its subjects in their dreams, and disturbs their waking hours. You, sir, have lately seen its influence on one honorable gentleman, (Mr. COLSTON,) who considered the appearance of a black face in the gallery, pending yesterday's discussion, of sufficient importance to justify a grave address to the committee, and an animated philippic upon the impropriety of this debate. To such gentlemen it may be "a delicate subject;" but to me I confess it is not. In my estimation, said Mr. T., the delicacy of the subject is lost, and ought to be forgotten in its immense importance. "A delicate subject!" in which is involved the security and happiness of unborn millions; a subject too delicate for discussion! —because our debate may be overheard by a negro in the gallery. Sir, it is a subject vastly important to my children, and the children of my constituents, who shall hereafter emigrate to Arkansas; and, while I have the honor of a seat on this floor, I will discuss it freely whenever public duty, in my judgment, requires it.

The honorable Speaker, said Mr. TAYLOR, has asked, if we wish to coop up our brethren of the slaveholding States, and prevent the extension of their population and wealth. Mr. Chairman, cast your eye on that map; survey the immense and fertile regions which stretch from the Sabine to Georgia; count, if you can, the millions of rich acres in Louisiana, Mississippi, and Alabama, lying uncultivated and waste. If gentlemen wish to disperse their slaves, here is an abundant opening. In all these States, new as they are, slavery has already planted its roots too deep, I fear, to be ever eradicated. With this opening I hope gentlemen will be content. Let them not carry the pestilence beyond the Mississippi, into a country where its existence, as yet, is but little known. Let them agree to the amendment, and every vestige of slavery

will soon disappear from the territory in question.

A gentleman from Virginia (Mr. TYLER) has added his lamentations on the existence of slavery in this country to those of his colleagues who preceded him. He informed us, too, that the Legislature of that State had passed resolutions, now in this House, requesting the aid of Congress to mitigate its evils. He nevertheless took care to give notice that he too should vote against the exclusion of slavery from Arkansas. It is not my province, said Mr. T., to question the consistency of any honorable member of this committee, but certainly, Mr. Chairman, I should not have anticipated such a conclusion, from the evidence before him. If Virginia has found slavery an intolerable burden; if she seek the aid of Congress to alleviate its evils, confessedly too great, and too inveterate for cure; if she deplore the policy by which it was introduced, I should not have expected to find a representative from Virginia legislating for the prosperity of Arkansas, and unwilling to exclude it from that territory.

Another gentleman from Virginia (Mr. HUGH NELSON) has charged us with fighting behind a masked battery. He considers this amendment as an entering wedge to prepare the way for an attack by Congress on the property of masters in their slaves, in the several States. The charge is unfounded. We know too well the constitutional powers of this House, and the constitutional rights of the States, to entertain an idea of such flagrant usurpation. Nay, sir, said Mr. T., we do not propose, even in this territory, over which we have full and undisputed sovereignty, to take from the master his property in a slave—so far from it, that if it be fact that the labor of slaves is there in demand, by prohibiting their further introduction into the territory, that demand will be increased, and the value of such property now there, will be greatly enhanced. The same gentleman, said Mr. T., has expressed an opinion that if our ancestors had maintained the doctrince embraced in the amendment, the Federal Constitution would never have been formed, and he has thought proper to warn us that, if it be persisted in, the confederation will be dissolved. Has it then come to this? Is the preservation of our Union made to depend on the admission of slavery into a territory not belonging to the States when the constitution was adopted? A territory purchased by Congress, and for which Congress are bound to legislate, with a faithful regard to the public welfare. Are we to be terrified from doing our duty, by threats of disunion and dismemberment? If the day ever arrive when the Representatives of one section of the country shall legislate in this hall under the influence of threats from another, it will be high time for a dissolution of the Union. No, sir, said Mr. T., that honorable gentleman greatly mistakes the people of this country, if he supposes this Union—cemented by so strong interests, necessary to all, and especially to the slaveholding States—consecrated by so much glorious achievement—sanctified by the blood of so many heroes—endeared by victories won with the exertions and treasures of all—that this Union, the preservation of which is the first lesson of lisping infancy, and the last prayer of expiring age—that this Union can ever be destroyed or in the least impaired by promoting the cause of humanity and freedom in America.

But, sir, said Mr. T., the honorable gentleman has mentioned a fact which shows how Virginia herself felt and acted on the subject of slavery, in the Convention of 1787. It was, he informs us, a Representative from Virginia who drew the ordinance excluding slavery from the Northwest Territory. This, said Mr. T., was a noble act—worthy to immortalize the name of Grayson. But alas! His zeal for the rights of man, his love for future generations, his active philanthropy and manly eloquence no longer animate this assembly. Would to God his mantle had fallen on some one of his successors. Then that successor, and not the humble individual who now addresses you, would have introduced this amendment to the consideration of the committee. He would have supported it by eloquence so powerful, by argument so unanswerable, by pathos so irresistible, that instead of the meagre majority for which I hope, it would be carried by the united voice of every member.

Mr. Chairman, said Mr. T., I too sensibly feel the value of your time, to proceed in this discussion. I have touched, but with the utmost brevity, the most prominent objections which have been urged against the amendment: less I could not say in justice to myself—much more I ought to say in justice to the subject. The general considerations which I had the honor to suggest, when in committee on the Missouri bill, are equally applicable on the present occasion. I will not repeat them—they are fresh in your recollection. May the future inhabitants of Arkansas approve the decision we now shall make—I ask no more. Let their interests be our guide, and the further introduction of slavery will not contaminate their borders.

Mr. WALKER, of North Carolina, spoke as follows: Mr. Chairman, in taking a view of this subject, let it not be forgotten, that we are legislating in a free country, and for a free people; the importance of the principle now contested, demands our utmost attention and vigilance to the great principles of the constitution, and particularly to that friendly compromise entered into by the worthy framers of that instrument. It was then conceded that the slaveholding States were to hold an equal portion of policy, and to be entitled to the same advantages as other States in the Union. But it appears by the prohibition and restriction attempted to be made as a condition of admitting new States into the Union, a direct violation of that sacred compact is attempted. The amendment proposed by the gentleman from New York, (Mr. TAYLOR,) which prohibits slaves from being taken into the territory of the Arkansas,

completely deprives the citizens of the Southern section of the Union from any advantages arising in the Government, or from having either part or lot, or any inheritance, on the west side of the Mississippi. Sir, was it not purchased by the whole United States? Did not the Southern States contribute their full share for that purchase? And are they not morally and politically entitled to equal advantages of the soil? It is to be presumed that a great portion of the population of that territory will be emigrants from the Southern States; they will be disposed to remove to that climate suited to their constitution and habits, or the culture of rice and cotton. Shall they be proscribed, and prohibited from taking their slaves? Sir, if so, your land will be an uncultivated waste—a fruitless soil; it is further south than the 35th degree of latitude, a low and warm country, that will not support a laboring white population.

But, sir, I contend that we have no legitimate power to legislate on the property of the citizens, only to levy taxes. We might, with the same right, prohibit other species of property from crossing the Mississippi. Have not the Southern States yielded to the Eastern States so much of their favorite system of free white population, as to give up, and relinquish the new States of Ohio, Indiana, Illinois, and all the vast territory north of the river Ohio? and shall the slaveholding States be withheld from a small share of the prospective advantages arising in the settlement of this new territory? Gentlemen seem to think that they are serving the cause of humanity effectively, in prohibiting slaves to cross the Mississippi. In this they are mistaken; they are withholding from them the means of all the comfort and happiness their condition affords; that is, food and raiment. It is well known that in the frontier country the servant feeds as his master, and is sufficiently clothed; while in the interior of the old States the means of subsistence is scanty and improvident.

But, sir, the great and radical objection to the amendment proposed, is taking away from the people of this territory the natural and constitutional right of legislating for themselves, and imposing on them a condition which they may not willingly accept. In organizing a territorial government, and forming a constitution, they, and they alone, have the right, and are the proper judges of that policy best adapted to their genius and interest, and it ought to be exclusively left to them. If they wish to exclude slaves from being taken into their territory, they can prohibit them by their own act. If they think proper to admit the emigration of slaves, they can say so. Let them be their own judges, and not force upon them a yoke they may not be willing to bear. The people of the Arkansas and of the West are competent judges of their constitutional rights, and well know how to appreciate their privileges as freemen; and be assured, the further from your metropolis, the greater the enthusiasm for liberty. Slavery is an evil we have long deplored, but cannot cure; it was entailed upon us by our ancestors; it was not our original sin, and we cannot, in our present situation, release ourselves from the embarrassment; and, as it is an evil, the more diffusive, the lighter it will be felt, and the wider it is extended the more equal the proportion of inconvenience. We know, we felt yesterday on the Missouri bill, you have the power; you are the majority; but do not bear us down on this question. I trust that gentlemen will exercise on this vote a spirit of conciliation, and give the Southern States an inheritance among their brethren, by suffering such of us as are disposed to become citizens of the Arkansas to take our slave property with us. Then your lands will be sold; your soil will be cultivated; and your country will flourish.

Mr. MCLANE, of Delaware, said he regretted very much the discussion of this subject in its present form, with regard to these territories, calculated as it was to arouse feelings which had long slumbered, and which could never be resuscitated without great danger to that humane object we all had in view. He regretted it the more, because it never was without pain that he found himself compelled to assume even the appearance of opposition to the most enthusiastic notion for the abolition of slavery. With such impressions, he should not have taken any part in the discussion, if the question had not been treated by the gentleman who has just resumed his seat, (Mr. CUSHMAN,) as one of liberty and slavery, an idea he utterly disclaimed; and, with a view of preventing any misconception of the course he felt it his duty to take, he would detain the committee a short time while he explained the reasons by which he was influenced. Mr. McL. said he would yield to no gentleman in the House, in his love of freedom, or in his abhorrence of slavery in its mildest form. His earliest education, and the habits of his life, were opposed to the holding of slaves, and the encouragement of slavery. At the same time, he would yield to no gentleman in the House in his regard for the constitution of his country, and for the peace, safety, and preservation of the Union of these States. To these great objects all minor considerations should give way. He would unite with gentlemen in any course within the pale of the constitution, for the gradual abolition of slavery in the United States. Beyond this, the oath he had taken as a member of the House, forbade him to go. The fixing of a line on the west of the Mississippi,* north of which slavery should not be

* This is the first suggestion of the policy which led to the adoption of the Missouri compromise. In the concluding part of his speech Mr. McLane returns to this idea—enforces it—embodies it; and, in fact, foreshadows the measure which allayed the portentous storm of 1819, '20, '21. He was firmly against the restriction on the State of Missouri as being unconstitutional and impolitic: he was against the restriction on the Territory of Arkansas as being impolitic, unjust to the Southern States, and against the treaty with France. He was for a division of Louisiana between the

tolerated, had always been with him a favorite policy, and he hoped the day was not distant when, upon principles of fair compromise, it might constitutionally be effected. He was apprehensive, however, that the present premature attempt, and the feelings it had elicited, would interpose new and almost insuperable obstacles to the attainment of the end.

Mr. McL. said, that gentlemen had lost sight of the real questions under consideration. They had treated the subject as if we were now deliberating upon the expediency of increasing the slavery in the United States from abroad; or, as if we were to decide whether there should or should not be slavery among us. Sir, if this were the question, there is no gentleman on this floor from the North or South who would hesitate in his opinion. He believed there was no quarter of the country in which slavery is more seriously deplored than in the South. But, it was an evil which existed—it had been unfortunately entailed upon us, and it required the united and dispassionate wisdom of the nation to mitigate its horrors and soften its calamities. The farther increase of slavery from abroad had been prohibited by very severe laws, and we were at this session about to pass others, enforcing their provisions, and repairing their defects. The present question regarded merely the disposition of the slaves among us, and that only in a limited extent. Sir, said Mr. McL., what is the question now before the committee?

France, by the treaty of April, 1803, ceded to the United States the territory of Louisiana—by certain limits, within which are contained the territories of Missouri and Arkansas, and upon the terms therein specified. At the time of this cession there were a number of slaves in both places, belonging to the people inhabiting those territories, and from that time until now, there has been no inhibition of the transportation of slaves to these territories from those States whose municipal regulations permitted their exportation. From these causes, the number has been increasing daily to the present time, and it is admitted that there is at present a very considerable slave population.

The restrictions which are now proposed, amount, in fact, first, to the emancipation of the present slaves and their issue; and, secondly, to a condition precedent to the admission of these Territories into the Union, as States, that they shall prohibit the introduction of slavery in future from any part of the United States. Under these provisions, persons removing thither with their families, and with the bona fide intention of residing permanently therein, are prohibited from carrying with them this species of property, should they be the owners of any.

I have no doubt that these propositions proceed from the most humane, philanthropic motives, and nothing can more gladden the heart than the contemplation of a portion of territory consecrated to freedom, whose soil should never be moistened by the tear of the slave, or degraded by the step of the oppressor or the oppressed. It is a theory which we should be very apt to reduce to practice, without even consulting the condition of the present miserable race of slaves in many parts of the United States, if we had the power to do so. But, although Mr. McL. desired the result as sincerely as any man, he was bound to say, that, after a deliberate investigation of the subject, he did not believe that Congress possessed the power to impose the restriction. As it regarded the unfortunate beings now held in slavery in those Territories, he said, he had no more right to provide for their liberation than he had to invade any other species of property whatsoever. Their owners had acquired the legal title to their labor and services, it had become a vested right, and we had no power to disturb it. We had no greater power to take from them their property in these slaves, than we had to deprive them of any chattel or other object of ownership. He did not mean to consider the slave as a mere chattel; he viewed him as an ill-fated member of the human race, doomed by a hard and cruel fortune to devote his labor and services to another; he was the subject of the protecting arm of the law, and his life and person were sacred from those outrages which might be committed with impunity upon other articles of property. But, after all, his services and his person belonged to his owner; he was the property of his owner. The man who steals a slave is guilty of felony—this shows him to be property. But, the constitutions of the States in which slavery is tolerated, and the Constitution of the United States recognize the interest of the owner in his slave as property. The union of the States is founded upon this principle; and the owner is authorized to reclaim his slave on the ground of property, when he shall have absconded from his service. In many of the States they are liable to be taken in execution and sold for debt, considering them as property. This is the law in the State which I have the honor in part to represent. If we treat them, therefore, as property, and if we even consider it in a limited sense, that the owner has property in, or right to, the service merely, it is, nevertheless, a right, and we cannot interfere with that right by a mere act of legislation.

What would be said of the Legislature of the State of Delaware, or Maryland, if, by law, they were to declare all the slaves within their territory to be free? Could it be pretended for a moment that they would have any right to do so? The utmost any State has done, has been to say, that, after a certain day, some time in prospective, the issue of all persons held to slavery shall be free. He would not now dis-

free and the slave States, by an equitable compromise line in the spirit in which the territory east of the Mississippi was divided by the ordinance of '87, and which harmonized the States and enabled the constitution to be made. And these views prevailed, and enabled the Union to be saved.

cuss this right, though he could not discern how the right to the usufruct of this property could be at all impaired, and, at any rate, in the case alluded to, the owner would be allowed the privilege of removing his slave before the day arrived when the law was to take effect. As it regarded the slaves, at present existing, therefore, we certainly had no power to interfere; and the question was of consequence narrowed down to the simple propositions to prohibit the introduction of slaves in future, and to denying to the inhabitants of those Territories about to become States, the right and privilege of deciding for themselves in this particular. It by no means follows that they will not decide to exclude slavery in future; it is quite probable they will find it their interest to do so; but have we the right of taking from them the privilege of judging of their own interest and policy in this respect? To our power to do this, either as regarded the State now to be admitted, or the territory hereafter to become a State, he conscientiously believed the constitution, and the national compact, to which he would hereafter refer more particularly, opposed an insuperable barrier.

Mr. McL. said he denied that Congress had power to impose any condition upon the admission of a State into the Union impairing its sovereignty. We had a right to require the form and spirit of its constitution to be Republican, and we had the right to say that we would or would not admit, but we could go no further. We could impose no terms in abridgment of its rights of sovereignty whatsoever, and he protested against the opposite doctrine as leading to the most pernicious consequences. "New States may be admitted by the Congress into this Union." When so admitted they become members of the Union, as the others who have been admitted before them; it is but an addition of another link to the old chain; incurring the same obligations to contribute to the common defence and general welfare, and therefore entitled to the same rights and privileges with the other Confederates. The term "State" imports sovereignty, and the term "State," in relation to the federative system of the United States, imports the same degree of sovereignty as is enjoyed by the States of that Union. It is of the very essence of our Government, that all the States composing the Union should have equal sovereignty. It is the great principle on which the Union reposes—the germ of its duration. How long would this empire be held together, composed as it is of many parts united together for a common interest, if all these parts were unequal in their privileges, unequal in their rights, but compelled to make an equal contribution to the support of the others? It would be a motley tribe of sovereign and demi-sovereign States—a congregated mass of incoherent particles—disorder and dismemberment would be the inevitable consequence. Besides, sir, a constitution is the charter containing the principles by which men are to be governed in their persons and property—it is the charter of rights of a free people—in its formation, deliberation and freedom of deliberation are necessary ingredients; but, if we are to make their constitution, or prescribe the terms of it, what becomes of the right of deliberation? We dictate the terms ourselves to suit our views, without regard to their interests or condition. In effect, we agree to admit them to be a State if they will consent to be less than a State—to constitute them a member of the Union, if they will agree to give up the right of judging of the form of government best adapted to their condition. But, sir, what are the limits of this power? If we have the right to impose this condition, what condition have we not a right to impose? The power must be general, or it does not exist. If we have the right to insist upon a stipulation on the part of the new State, not to admit slaves, because it is humane and politic to do so, we would have an equal right to insist upon a stipulation of another kind, if it should also appear to us to be wise and politic; we might prescribe, as a condition, that their right of suffrage should be regulated as we should direct; that their representation should not be as large, in proportion to their population, as other States; that they should not have the benefit of the equality of taxation; that they should surrender to the General Government greater powers, and retain fewer rights than the other States of the Union had done; or that they should encourage this or that religion, or no religion at all. And, sir, at some future day, when the slaveholding interest, as it has been called, predominates in this body, it might be made a condition, upon the admission of a new State, that slavery should not only be tolerated, but that it should never afterwards be interdicted. Let gentlemen remember, too, that the predominance of this interest is by no means improbable, and that there yet remains a vast, unsettled region, which the future growth of this mighty empire is destined to people and improve. Sir, it is the undoubted right of every people, when admitted to be a State, to become free, sovereign, and independent—free to make their own constitution and laws—to be the judges of their own policy, and free to alter or amend them at pleasure. The moment they are constituted a State, they would have these rights, notwithstanding the condition imposed; and, if they were to present you with a constitution, containing this provision, it would be matter of form only; they could change it immediately afterwards, and abolish the very feature you would desire to retain. The condition, therefore, would not only be unconstitutional, but useless. We do not possess the political power to enforce it; an attempt to do so, would, no doubt, prove abortive as to its object; but it might leave behind it a deep and lasting wound, rankling in the bosom of the State, and finally alienate all their respect for your authority.

But, Mr. Chairman, said Mr. McL., besides the general principles already adverted to, we are not at liberty, as respects this Territory, to consult our power, if we possessed it. We are bound to these people by a compact which forbids us to impose the condition, and we cannot, without a breach of faith, violate that compact. The third article of the treaty of cession provides, that, "The inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States—and, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion they profess."

This article applies both to Missouri and Arkansas; and, in fact, so do all the arguments already used; for, though the law now to be passed refers to Arkansas as a Territory, yet it will shortly become a State, and the principles derivable from its sovereignty would then apply with equal force. By this treaty, then, we have stipulated to protect the inhabitants of this Territory in the enjoyment of their property, of which their slaves unquestionably formed a part, until they can be incorporated in the union of the United States, that is, until their population shall amount to the number always required to authorize the admission of a State, or until Congress shall pass a law authorizing them to form a constitution. As soon as this is the case, they are to be "incorporated in the union of the United States," and admitted, "according to the principles of the Federal Constitution," to the enjoyment of all the rights, advantages, and immunities of "citizens of the United States." What are these "rights, advantages, and immunities," "according to the principles of the Federal Constitution?" That they shall have the right of holding slaves if they please to do so; that they shall form State governments, with the same rights and immunities of all other State governments; that they shall have the same power to make their municipal laws as any other States, and the same advantages as citizens of the United States. As such, as citizens of the United States, the right to possess slaves is unquestionable. It cannot be doubted that all the States possess this right of admitting or excluding slavery within their jurisdiction, as they may think fit. Pennsylvania and New York possess this right; and, though it is their present policy to exclude slavery, no one can doubt that they would have the right to-morrow, if they thought proper to do so, to alter their policy, and permit the introduction of slavery. The right to hold slaves, and, which is more important as it respects their freedom and sovereignty, the right to decide whether they will or will not hold them, is as much an immunity and advantage, under our constitution, as the right to be represented in Congress, or the right to a freedom of religious opinion, or the right to have the slaves accounted a part of their population, in the manner prescribed by the constitution. We have no more power to impair one than another of these rights.

Sir, we cannot attach too much importance to this treaty, and the rights secured by it. It was the condition of the transfer of the original inhabitants of this Territory, and their possessions, from their former Government to ours. They enjoyed these rights under their old Government, and in the exchange of allegiance they were assured that it should not be lost; that the United States would guarantee them these rights, and protect them in their enjoyment. Strangers as these people were to us and to our institutions, the solemn obligations of the treaty should, on this account, be sacredly observed. We are to win their affections for our Government and constitution, which can only be done by a sacred regard for their rights and our own obligations. The inhabitants who have since emigrated to this Territory, have gone under the faith of this treaty, relying upon the known good faith of the American Government, for the strict fulfilment of its stipulations. Sir, the prosperity and union of the United States depend upon the honest performance of all the engagements on the part of the Government. The protection to all its members—of the people, of the country—in the enjoyment of their rights, of every description, is the object of the Union. When the disposition to do this effectually ceases, the great chain by which we are connected will cease to bind us. And, sir, if any one or more of the States have a deeper interest in the faithful execution of the principles of our compact, it is the small States, who should be the last to relax the most rigid enforcement of their true spirit and intention.

It does therefore appear to me, Mr. Chairman, said Mr. McL., that we are prevented, both by the principles of our constitution and the terms of our solemn compact, from imposing this restriction; that, without considering the expediency of the measure, it becomes a conscientious duty (though to some, and to me among others, a painful one) to resist it. And yet, sir, a view of the question of expediency would go very far to mitigate the pain which we might otherwise feel at being unable to gratify our wishes. We have now in the United States a large slave population. It is certain that it cannot be increased by importations from abroad. Their sudden emancipation is utterly impracticable. In their present situation, even a gradual one is almost hopeless. To meliorate their sufferings, and soften the rigors of their servitude, is the most that can be done in many parts of the country. But while they are confined exclusively to the Southern States, owned in large numbers by a single individual, and limited to a single farm, even this change is scarcely to be expected. If, however, they were permitted to be carried by the children of the Southern planter, when emigrating to the

Western country in pursuit of the riches which that fruitful territory holds out to an industrious enterprise—and I would not permit them to be sold by traders, or become the objects of profit—they would by this means become dispersed over a wider field; their condition would necessarily be improved, (for they always thrive and do better when held in small numbers;) and the chances of emancipation would certainly be multiplied in both countries; the number would be less in the South and the West; they would be less formidable to the white population; and in the course of time gradually acquire ease and freedom. In the State from which I have the honor to come, the work of emancipation is rapidly progressing, and, I believe, principally owing to the sparseness of this description of population. Their condition is also better than those further South, from the same cause. There is, however, one view of this part of the subject so nearly allied to the right of Congress to impose the contemplated restriction, that I cannot avoid adverting to it. It is said by the gentlemen from the South, that this Territory was purchased with the common fund of the nation, to whose benefits all have an equal right; and that, by preventing the Southern planter from carrying his slaves with him when he goes to settle in this Territory, you interdict the emigration from that quarter altogether. Although it is clear that any one State might frame its municipal regulations so as to exclude the introduction of slaves, even by persons removing into it, yet it can scarcely be doubted that the exercise of this right ought to be left to the sound discretion of each State; and we know the policy of different States varies in this particular. In Delaware, persons removing from or into the State are permitted to carry their slaves with them: their introduction and exportation is prohibited only for the purposes of sale. In Pennsylvania it is otherwise. Congress would certainly have no power to interdict the emigration from one State to another; and it is worthy of consideration how far they can do the same by indirect means. I cannot admit the construction of the honorable gentleman from New York, (Mr. SPENCER,) of the clause of the constitution which provides that the emigration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited prior to the year 1808. This clause was designed to embrace all classes of people—freemen as well as slaves—coming from abroad. It could not mean to authorize Congress to prohibit the migration from one State to another, because it would conflict with another provision, that citizens of one State shall be entitled to all the privileges of free citizens in another, which secures the right of emigration; and because, if it were designed to vest the power in Congress, it would of necessity, to be available at all, be an exclusive power; but we all see the States constantly exercising it, and they have been in the habit of exercising it ever since the adoption of the constitution.

On the whole, Mr. Chairman, said Mr. McL., it seems to me that we have no right to impose this restriction; and that, if we had, it would be useless, impracticable, and unavailing. At the same time, I do not mean to abandon the policy to which I alluded in the commencement of my remarks. I think it but fair that both sections of the Union should be accommodated on this subject, with regard to which so much feeling has been manifested. The same great motives of policy which reconciled and harmonized the jarring and discordant elements of our system, originally, and which enabled the framers of our happy constitution to compromise the different interests which then prevailed upon this and other subjects, if properly cherished by us, will enable us to achieve similar objects. If we meet upon principles of reciprocity, we cannot fail to do justice to all. It has already been avowed by gentlemen on this floor, from the South and the West, that they will agree upon a line which shall divide the slaveholding from the non-slaveholding States. It is this proposition I am anxious to effect; but I wish to effect it by some compact which shall be binding upon all parties, and all subsequent Legislatures; which cannot be changed, and will not fluctuate with the diversity of feeling and of sentiment to which this Empire in its march must be destined. There is a vast and immense tract of country west of the Mississippi yet to be settled, and intimately connected with the northern section of the Union, upon which this compromise can be effected. Believing as I do that the constitution and the compact before mentioned will not permit us to extend our policy over the whole, I will be very willing to take as great a part as I can obtain: and in so doing—though I may lament that the humane policy of those who are so anxious to effect this end cannot be more widely diffused—I shall at least enjoy the consciousness of having conformed to the constitution of the country, and executed the national compacts in good faith.

The motion was advocated by Messrs. TALLMADGE, LIVERMORE, SPENCER, and CUSHMAN; and was opposed by Messrs. CLAY, ROBERTSON, TYLER, HUGH NELSON, STORRS, JOHNSON, of Virginia, BARBOUR, of Virginia, and KINSEY. Several of the gentlemen spoke more than once, and the debate was maintained, with much animation, until near 4 o'clock.

The question was finally taken on the first part of the motion (it having been divided) in the following words:

"That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, of which the party shall have been convicted."

And it was decided in the negative: For the motion 68; against it 80.

The remaining part of the proposition, to de-

clare all the children free after twenty-five years of age, who shall be hereafter born in the Territory, was negatived without a division.

The committee then proceeded with the bill, and having gone through it, next took up the

Alabama State Government Bill,

for enabling the people of that Territory to form a constitution and State government, and for the admission of the same into the Union on an equal footing with the original States.

Much time was busily employed by the committee in receiving and disposing of various amendments proposed to the details of this bill, and in considering and deciding on its provisions. Messrs. CROWELL, POINDEXTER, COBB, and others, entered into the discussion. The committee negatived one or two motions to rise, and persevered through the bill; when the committee rose, and reported both bills to the House, with the amendments made thereto; and at near five o'clock the House adjourned.

THURSDAY, February 18.

A new member, to wit, ROBERT RAYMOND REED, from Georgia, elected to supply the vacancy occasioned by the resignation of John Forsyth, appeared, produced his credentials, was qualified, and took his seat.

Arkansas Territory—Restriction of Slavery.

The House then proceeded to the consideration of the report of the committee on the bill to establish a separate Territorial government in the southern part of the present Missouri Territory.

Mr. TAYLOR moved to amend the same by inserting the following proviso in the bill:

"That the further introduction of slavery, or involuntary servitude, be prohibited, except for the punishment of crimes, whereof the party shall have been fully convicted.

"And that all children born within the said State, after the admission thereof into the Union, shall be free at the age of twenty-five years."

The question on this motion being divided, was first taken on agreeing to the first clause thereof, in the following words:

"That the further introduction of slavery, or involuntary servitude, be prohibited, except for the punishment of crimes, whereof the party shall have been fully convicted."

And decided in the negative—yeas 70, nays 71, as follows:

YEAS.—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Comstock, Crafts, Cushman, Darlington, Drake, Folger, Fuller, Hall of Delaware, Hasbrouck, Hendricks, Herrick, Heister, Hitchcock, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Merrill, Robert Moore, Samuel Moore, Morton, Mosely, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Scudder, Seybert, Sherwood, Spencer, Southard, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Wallace, Wendover, Whiteside, Williams of Connecticut, Williams of New York, and Wilson of Pennsylvania.

NAYS.—Messrs. Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Cobb, Cook, Crawford, Culbreth, Desha, Earle, Edwards, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, H. Nelson, T. M. Nelson, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Porter, Quarles, Reed of Georgia, Rhea, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, S. Smith, Alex. Smyth, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, and Williams of North Carolina.

So that part of Mr. TAYLOR's motion was decided in the negative.

The question was then taken on the remaining clause of said proposed amendment, in the following words:

"And all children born of slaves within the said Territory, shall be free, but may be held to service until the age of twenty-five years."

And decided in the affirmative—yeas 75, nays 73, as follows:

YEAS.—Messrs. Adams, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gilbert, Hall of Delaware, Hasbrouck, Hendricks, Herrick, Heister, Hitchcock, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Mosely, Murray, J. Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Schuyler, Scudder, Seybert, Sherwood, Southard, Spencer, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Wallace, Wendover, Westerlo, Whiteside, Williams of Connecticut, Williams of North Carolina, Williams of New York, and Wilson of Pennsylvania.

NAYS.—Messrs. Abbott, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Cobb, Cook, Crawford, Cruger, Culbreth, Desha, Earle, Edwards, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Middleton, H. Nelson, T. M. Nelson, Nesbitt, New, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Quarles, Reed of Maryland, Reed of Georgia, Rhea, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, S. Smith, Alexander Smyth, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, and Walker of North Carolina.

So that part of Mr. TAYLOR's motion was agree to.

Mr. WILLIAMS, of North Carolina, then moved to reconsider the vote just taken. He had voted with the majority, for the purpose of obtaining for himself the privilege of moving a reconsideration, wishing for a full expression of the opinion of the House on this important question, which could not now be obtained, as many members were out of the House.

The question was taken on reconsidering the vote, and decided in the negative—yeas 77, nays 79.

The question being then stated on ordering the bill to be engrossed for a third reading—

Mr. BASSETT, deeming every effort called for on the part of the minority on this subject, to sustain their constitutional rights, which he considered to be assailed in the amendment just adopted, moved that the bill be recommitted to a select committee.

Some conversation took place between Messrs. PINDALL, COLSTON, EDWARDS, SCOTT, LOWNDES, and MILLS, as to the course now most expedient to give the bill; in the course of which,

Mr. LOWNDES moved that the bill be laid on the table, stating at the same time that, to prevent its being called up, and decided by surprise, he should, at 12 o'clock to-morrow, move for a call of the House, and take up the bill for a decision. This motion prevailed, and

The bill was laid on the table.

Alabama State Government.

The House next took up the amendments reported by the Committee of the Whole to the bill from the Senate, to authorize a State government in the Territory of Alabama, and for its admission into the Union.

The amendments were concurred in by the House, and, after an ineffectual attempt by Mr. CROWELL further to amend one of the sections, were ordered to be engrossed, and, with the bill, read a third time.

FRIDAY, February 19.

Arkansas Territory—Restriction of Slavery.

The House then proceeded to the consideration of the bill to establish a separate Territorial government in the southern part of the Missouri Territory.

A motion was made by Mr. ROBERTSON, of Kentucky, with the view of obtaining the erasure of the amendment yesterday adopted, to recommit the bill to a select committee, with instructions to strike out these words: "And all children born of slaves within the said Territory, shall be free, but may be held to service until the age of twenty-five years."

And the question being taken thereon, was decided as follows: For the recommitment 88, against it 88.

YEAS.—Messrs. Abbott, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Campbell, Cobb, Colston, Cook, Crawford, Cruger, Davidson, Desha, Earle, Edwards, Ervin of South Carolina, Fisher, Floyd, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Quarles, Reed of Md., Reed of Georgia, Rhea, Ringgold, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, S. Smith, Ballard Smith, Alexander Smyth, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Strother, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Whitman, and Williams of North Carolina.

NAYS.—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Clagett, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Mosely, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Porter, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Seybert, Sherwood, Silsbee, Southard, Spencer, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkins, Williams of Con., Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania.

There being an equal division, the SPEAKER declared himself in the affirmative; and so the said motion was carried; and Messrs. ROBERTSON, SILSBEE, BURWELL, MILLS, and LOWNDES, were appointed the said committee.

Mr. ROBERTSON, from the committee to whom was this day referred the bill establishing a separate Territorial government for the southern part of the Territory of Missouri, with instructions to amend the same by striking out these words: "And all children born of slaves within the said Territory, shall be free, but may be held to service until the age of twenty-five years," reported the same, amended agreeably to the said instructions.

Mr. MERCER expressed his views of this question in a short speech.

The question was then taken to concur with the select committee in striking out the said words, and passed in the affirmative—yeas 89, nays 87, as follows:

YEAS.—Messrs. Abbott, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Campbell, Cobb, Colston, Cook, Crawford, Cruger, Culbreth, Davidson, Desha, Earle, Edwards, Ervin of South Carolina, Fisher, Floyd, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Owen,

Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Quarles, Reed of Maryland, Reed of Georgia, Rhea, Ringgold Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, S. Smith, Ballard Smith, Alex. Smyth, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Strother, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Whitman, and Williams of North Carolina.

NAYS.—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Clagett, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Mosely, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Porter, Rice, Rich, Richards, Rogers, Ruggles, Savage, Schuyler, Scudder, Sergeant, Seybert, Sherwood, Silsbee, Southard, Spencer, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania.

So the House determined, by a majority of two votes, to strike out the clause imposing a restriction on slavery in the proposed new Territory of Arkansas.

Mr. TAYLOR then moved to amend the bill by inserting a provision "that, during the existence of the Territorial government of Arkansas, no slaves shall be brought into the said Territory, to remain therein for a longer time than nine months from the date of their arrival."

Mr. PITKIN supported, at some length, the amendment.

Mr. WHITMAN, of Massachusetts, spoke at some length, to explain the reason why he should vote against imposing the slavery restriction on the Territory of Arkansas, while in favor of imposing it on the State of Missouri. The more southern position of Arkansas was the reason.

Mr. TAYLOR, then, for reasons which he stated, modified the amendment, to read as follows:

"That neither slavery nor involuntary servitude shall hereafter be introduced into the said Territory, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted."

Mr. MERCER, after earnestly, and at some length, supporting his views on this subject, moved to amend the proposed amendment, by adding thereto the following proviso:

"*Provided*, That nothing herein shall divest the inhabitants of Arkansas of their rights of property in the slaves which they now hold, or the natural increase thereof; nor to entitle to his freedom any slave carried therein, and held there for a period not exceeding nine months."

This motion was negatived without a division; and,

The question being then taken on Mr. TAYLOR'S amendment, was determined in the negative—yeas 86, nays 90, as follows:

YEAS.—Messrs. Adams, Allen, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Clagett, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Mosely, Murray, Jer. Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Seybert, Sherwood, Silsbee, Southard, Spencer, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, and Wilson of Pennsylvania.

NAYS.—Messrs. Abbott, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Campbell, Cobb, Colston, Cook, Crawford, Cruger, Culbreth, Davidson, Desha, Earle, Edwards, Ervin of South Carolina, Fisher, Floyd, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, Hugh Nelson, Thomas N. Nelson, Nesbitt, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Porter, Quarles, Reed of Maryland, Reed of Georgia, Rhea, Ringgold, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, Samuel Smith, Bal. Smith, Alexander Smyth, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Strother, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Whitman, and Williams of North Carolina.

Mr. TAYLOR, then, after stating that he thought it important that some line should be designated beyond which slavery should not be permitted, &c., moved the following amendment as an additional section to the bill:

"That neither slavery nor involuntary servitude shall hereafter be introduced into any part of the Territories of the United States, lying north of 36 degrees and 30 minutes of north latitude."*

Mr. LIVERMORE conceived this proposition to be made in the true spirit of compromise, which ought to be met, but suggested a different line.

Mr. RHEA opposed this amendment, and spoke against any amendment or restriction of the sort, as unconstitutional, and inconsistent with the treaty with France, which transferred to us the territory west of the Mississippi.

* This proposed line, while exempting Arkansas from the restriction, would have included the State of Missouri in it, as it followed the latitude of 36° 30 through its whole course in Louisiana.

Mr. OGLE was against the amendment, because opposed to any compromise by which slavery in any of the Territories should be recognized or sanctioned by Congress.

Mr. STROTHER thought it would be better to withdraw the amendment, and bring forward the principle in a separate bill, and argued in support of his view of the question.

Mr. HARRISON assented to the expediency of establishing some such line of discrimination; but, for reasons which he explained at large, proposed a different one, by way of amendment to the amendment, as follows:

"That all that part of the present Territory of Missouri, lying north of a line to be run due west from the mouth of the river Des Moines to the territorial boundary of the United States, shall form a part of the Territory of Michigan; and the laws now in force in the said Territory as well as the ordinance of Congress prohibiting slavery or involuntary servitude in said Territory of Michigan, shall be in force in that part of the Missouri Territory lying north of the said east and west line."

Mr. BARBOUR, of Virginia, was opposed to Mr. TAYLOR'S amendment, and to all others of a similar character; and spoke with much earnestness against the proposition at some length, as partial and inexpedient; arguing that, if the principle was wrong in itself, (and the question had been discussed on principle alone,) it ought not to be withheld from one part of the Territory and applied to another; that it was legislating partially, by applying a rule to one portion and a different rule to another portion of citizens, having equal rights, and placed under similar circumstances. If the rule was wrong at the 25th degree of latitude, it was equally so at the 40th. He argued that it was as impolitic as it was unjust to draw this line; it was proper to let a future Congress act on it, as should then appear expedient; and this opinion, as well as others which he advanced, he maintained at some length.

Mr. ANDERSON, of Kentucky, gave the amendment his unqualified disapprobation. It was no compromise—its friends asked every thing and gave nothing—what they got now was insured to them, and what they conceded now would not be binding on a future Congress, and the same principle might be extended, by hereafter inserting it in the constitution of Arkansas, when it should become a State. Furthermore, the principle was contrary to the Treaty of Cession with France, and he could not agree to any compromise, even if it were fairly proposed; all of which views he strenuously enforced.

Mr. LIVERMORE replied, and argued at length to show that the compromise was fair and liberal; also that the Treaty of Cession could not bind Congress in this case, as it was out of the power of the Government to admit States into the Union by treaty; that the Territory was purchased, and it was now competent for the Government to dispose of it in any manner whatsoever, either to sell it, recede, &c.

Mr. BEECHER followed in a speech of near an hour in length, entering into an inquiry into the whole subject presented by the various propositions brought forward.

Mr. COBB rose to put an end at once to a debate, which he said was disagreeable to one part of the House, however agreeable it might be to the other; and the end of which, if unchecked, could not be seen, as it was impossible to foretell what number of amendments might be presented. He therefore called for the *previous question*, to obtain at once a decision on the engrossment of the bill.

The previous question was refused by the House—ayes 67, noes 74; when

Mr. TAYLOR, having stated that he perceived from the debate, as well as from conversation, that it was not probable any line would be agreed on by the House, or any compromise of opinion be effected, withdrew his amendment.

The bill was then ordered to be engrossed, and read a third time.*

MONDAY, February 22.

Deaf and Dumb Asylum.

Mr. TERRY, from the committee to which was referred the petition of the Connecticut Asylum, for the education and instruction of deaf and dumb persons, made a report, which was read; when Mr. T. reported a bill in behalf of the Connecticut Asylum for teaching the deaf and dumb; which was twice read, and ordered to lie on the table. The report is as follows:

That an association of a number of citizens of the State of Connecticut was formed in the year 1815, for the purpose of establishing a school for the instruction of the deaf and dumb. Finding great numbers of this unfortunate description of persons in our country without education, and without any attempts being made to give them the education which they are capable of receiving, and actuated by a benevo-

* This was the first debate in Congress on the subject of prohibiting slavery in a territory, and was brought on in a way to excite the highest feeling and to provoke the strongest opposition. The Missouri State bill had just been lost under the attempt to prevent it in that State. Passing further south, here was an attempt to prohibit in a territory which extended to the State of Louisiana and to Texas—that is to say, to the whole of the province of Louisiana south of Missouri—equivalent to an attempt to exclude it from the whole province: for, if excluded from the southern half of the province, the exclusion would follow of itself in the northern half. It was a settled territory—settled under the French Government—had an actual slave population—and was in the latitude of Southern products: cotton, tobacco. It was the most obnoxious case in which the attempt could be made, and calculated to bring forward the strongest objections to it. The strongest objection would have been constitutional inability to impose the prohibition; yet such an inability was not even hinted at by any member. Able men from the slave States were there, and jealous of the rights of their section; but no one raised a constitutional question. Expedient objections only were used, and the treaty obligation to protect the inhabitants in their property.

lent desire to rescue them, as far as was practicable, from their state of ignorance and degradation, and to fit them for social intercourse and happiness, the associates, by voluntary contribution, raised a sum of money sufficient to defray the expense of sending the reverend Thomas H. Gallaudet to Europe, for the purpose of learning the modes of instruction practised there. Mr. Gallaudet went to England, to Scotland, and to France. In London, he did not find a disposition in the teachers to communicate instruction so readily as the benevolence of his mission seemed to entitle him to expect; but he had the good fortune to meet there the Abbe Sicard, the principal of the institution for the instruction of the deaf and dumb at Paris, a gentleman distinguished for talents, benevolence, and devotion to the interests of these unfortunate persons. The Abbe assured him that, if he would go to Paris, every facility should be afforded him of acquiring a knowledge of their modes of instruction; which assurances he found fully realized upon going there. The Abbe kindly took him into the school, and explained to him every thing relating to their modes of instruction and management; but Mr. Gallaudet found that the time which his arrangements would permit him to spend in Paris would be much too short to enable him to acquire the knowledge necessary for an accomplished instructor; and having become acquainted with Laurent Clerc, a pupil of the Abbe, and for eight years an assistant instructor, he engaged him to come to this country as an instructor in the school about to be established in Connecticut. They arrived here in August, 1816, and Mr. Clerc is still an assistant to Mr. Gallaudet in the Connecticut Asylum. The Legislature of Connecticut, in May, 1816, incorporated the said associates by their aforesaid name. There are at present in the school more than fifty pupils, from the States of New Hampshire, Massachusetts, Vermont, Rhode Island, Connecticut, New York, Pennsylvania, Maryland, Virginia, and Kentucky, who are taught by five instructors, and who pay $200 per annum, each, for tuition, board, washing, and lodging. The institution is open for the reception of pupils from every part of the Union; but its funds (which have arisen almost entirely from voluntary contribution) are too small to admit of its becoming extensively useful; they are not sufficient even to erect the buildings necessary for the accommodation of the present number of pupils.

Considering that this institution is calculated not only to afford instruction to the deaf and dumb, who are to be found in all parts of our country, but also to qualify teachers for other schools which may be established in other parts of the Union, and considering that it is the first attempt of the kind in the United States, and that it has been raised to its present condition by the care and at the expense of charitable individuals, most of whom had no particular interest in its success, the committee are of opinion that it is worthy of the patronage of Congress, and that the prayer of the petition ought to be granted; and for that purpose they report a bill.

THURSDAY, February 25.

Bank of the United States.

The House took up and proceeded to consider the report of the Committee of the Whole on the state of the Union, made yesterday, on several subjects referred to it in relation to the Bank of the United States; when

Mr. SPENCER withdrew his motion to lay the said report upon the table.

The question was then taken to concur with the Committee of the Whole in their disagreement to the resolution submitted by Mr. JOHNSON, of Virginia, in the following words, to wit:

"*Resolved*, That the Committee on the Judiciary be instructed to report a bill to repeal the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,' approved April 10, 1816."

And passed in the affirmative—yeas 121, nays 30.

The question was then taken, also, to concur with the Committee of the Whole, in their disagreement to the resolution submitted by Mr. TEIMBLE, in the following words, to wit:

"*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Attorney-General of the United States, in conjunction with the District Attorney of the State of Pennsylvania, shall immediately cause a *scire facias* to be issued, according to the 23d section of the 'Act to incorporate the subscribers to the Bank of the United States;' calling on the corporation created by the said act to show cause wherefore the charter thereby granted shall not be declared forfeited, and that it shall be the duty of the said officers to cause such proceedings to be had in the premises as shall be necessary to obtain a final judgment thereon; for the expenses of which Congress will hereafter provide:"

And passed in the affirmative—yeas 116, nays 39, as follows:

YEAS.—Messrs. Abbott, Adams, Allen, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Bateman, Bayley, Bennett, Bloomfield, Boss, Bryan, Claget, Cobb, Colston, Comstock, Crafts, Cruger, Cushman, Darlington, Davidson, Earle, Edwards, Fisher, Folger, Fuller, Gage, Garnett, Gilbert, Hale, Herkimer, Holmes, Hopkinson, Hubbard, Hunter, Huntington, Jones, Kinsey, Kirtland, Lawyer, Lewis, Lincoln, Linn, Little, Lowndes, McLane of Del., W. Maclay, W. P. Maclay, McCoy, Mason of Massachusetts, Mason of Rhode Island, Mercer, Merrill, Middleton, Mills, Samuel Moore, Morton, Mosely, Murray, Jeremiah Nelson, H. Nelson, Newton, Ogden, Orr, Owen, Parrott, Pawling, Peter, Pitkin, Pleasants, Poindexter, Porter, Quarles, Reed of Maryland, Reed of Georgia, Rice, Rich, Ringgold, Robertson, Ruggles, Sampson, Savage, Sawyer, Scudder, Sergeant, Settle, Shaw, Sherwood, Silsbee, Simkins, Slocumb, S. Smith, Ballard Smith, Alexander Smyth, J. S. Smith, Southard, Storrs, Strother, Stuart of Maryland, Tallmadge, Taylor, Terrell, Terry, Tompkins, Townsend, Tucker of Virginia, Tucker of South Carolina, Upham, Walker of North Carolina, Wallace, Wendover, Whitman, Wilkin, Williams of Connecticut, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS.—Messrs. Austin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Blount, Boden, Burwell, Butler of Louisiana, Campbell, Desha, Ervin of South Carolina, Floyd, Hall of North Carolina, Harrison, Hendricks, Herrick, Hitchcock, Hogg, Hostetter, Johnson of Virginia, McLean of Illinois, Marchand, Marr, Robert Moore, T. M. Nelson, Patterson, Pegram, Pindall, Rhea, Rogers, Speed, Spencer, Tarr,

Trimble, Tyler, Walker of Kentucky, Williams of New York, and Williams of North Carolina.

So the House concurred with the Committee of the Whole in rejecting both resolutions.

The House then took up the amendments reported by the committee to the bill "to enforce those provisions of the act to incorporate the subscribers to the Bank of the United States, which relate to the right of voting for directors."

And the question was then taken, "Shall the said bill be engrossed and read a third time?" and passed in the affirmative—yeas 98, nays 38.

FRIDAY, February 26.

Military Academy.

Mr. RICH having obtained the floor, remarked that he rose for the purpose of submitting a motion, the object of which was to call upon the Secretary of War for information to be communicated at the next session of Congress, in relation to the Military Academy. He said he had been induced to submit the motion from a belief that, either in the organization of the government of the Academy, or in the administration of it, there were some defects; and from a further belief that Congress were not possessed of the information necessary to enable it to judge whether the country received a fair equivalent for the large expenditures which were annually made upon that institution. He then submitted the following resolutions, which were adopted:

Resolved, That the Secretary of War be instructed to report to this House, at an early period of the next session of Congress, a copy of such rules and regulations as shall have been adopted for the Government of the Military Academy; together with a list of the cadets which were attached to the Academy on the first day of January, 1815, and of such as shall have been appointed between the said first of January, and 30th September, 1819; exhibiting the date of their several appointments, with the States and Territories from whence they came; a list of such as shall have resigned or shall have been dismissed, and at what period; also, a list of such as shall have been commissioned in the army, with the date of their commissions, and of such as shall have resigned, with the date of their resignations.

Resolved, also, That the said Secretary be instructed to report as aforesaid, whether any, and if any, what legislative provisions are necessary for the more convenient organization and government of the said academy, the better to insure a strict obedience to all proper orders, and a suitable respect for all the rights of those whose duty it may be to yield obedience.

SATURDAY, February 27.

Treaty for the Acquisition of Florida.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States.

The treaty of amity, settlement, and limits between the United States and his Catholic Majesty having been on the part of the United States ratified, by and with the advice and consent of the Senate, copies of it are now transmitted to Congress. As the ratification on the part of Spain may be expected to take place during the recess of Congress, I recommend to their consideration the adoption of such Legislative measures, contingent upon the event of the exchange of the ratifications, as may be necessary or expedient for carrying the treaty into effect, in the interval between the sessions, and until Congress at their next session may see fit to make further provision on that subject.

JAMES MONROE.

WASHINGTON, *Feb.* 26, 1819.

MONDAY, March 1.

Connecticut Asylum.

The House next agreed, on motion of Mr. TERRY, by the casting vote of the Speaker, to take up the bill for the benefit of the Connecticut asylum for the deaf and dumb, [granting to it a donation of six sections of the public lands.]

Mr. TERRY briefly adverted to the humane object of this institution, its general and extensive utility, the number of unhappy objects who were already receiving the benefis of the asylum, &c. The bill was also supported by Mr. HARRISON, who agreed in opinion as to its general utility—there being numbers of the unfortunate beings for whose benefit it was intended, scattered through many of the States, if not all, &c.

The bill was opposed by Mr. BASSETT, who deemed the institution entirely a local one, not deserving, more than any other local object, the expenditure of national funds on it. He sympathized with the subjects in the institution, but it was not a charitable one, as the rich alone, he understood, received the benefits of the asylum; and he was unwilling to tax the poor for their support; and it was furthermore a precedent which might hereafter be regretted when too late. He moved the commitment of the bill.

Mr. TERRY replied that the institution was strictly charitable, as it was almost exclusively used for the benefit of the indigent.

Mr. POINDEXTER was unwilling to vote a donation of the public lands for this object; a similar donation had been refused to the individual States for the benefit of a university, &c.

Mr. PITKIN replied to the opponents of the bill at some length, and supported the humanity and extensive usefulness and benign effects of the institution.

The motion to commit the bill was lost; and the question being on a third reading, the debate became more extensive—it being supported by Messrs. ORR, TERRY, COLSTON, and MERCER; and opposed by Messrs BASSETT and BARBOUR; the last-named gentleman moving the indefinite

postponement of the bill, which was negatived —ayes 43, noes 60, and the bill was then ordered to be engrossed for a third reading to-day.

Occupation of Florida.

The House then, on motion of Mr. HOLMES, resolved itself into a Committee of the Whole on the state of the Union, to which was referred the bill authorizing the President of the United States to take possession, under the treaty with Spain, of East and West Florida, and providing for the temporary government of the territory.

Mr. HOLMES moved to amend the bill, by inserting a provision to authorize the appointment of commissioners for the adjustment of the claims, and of the western boundary, in pursuance of the stipulations of the treaty, and providing the sum of —— dollars to defray the expenses of the said commission.

The question was then taken on the proposed amendment, and decided in the negative without a division; and the bill was ordered to be engrossed, and was subsequently read a third time, passed, and sent to the Senate for concurrence.

TUESDAY, March 2.

Missouri State Government—Disagreement of the two Houses—Senate Adheres.

The House took up the amendments of the Senate to the bill authorizing the formation of a State government for the Territory of Missouri, and concurred in all of them, except that which struck out the prohibitory clause concerning the admission and toleration of slavery.

Some debate arising again on the principle of this amendment, Mr. TALLMADGE moved the indefinite postponement of the bill.

This motion was discussed at some length, Messrs. MILLS, TAYLOR, and TALLMADGE, supporting the postponement, and Messrs. SCOTT, ANDERSON of KENTUCKY, POINDEXTER, TUCKER of Virginia, BARBOUR of Virginia, and BEECHER, opposing it; and was decided in the negative—yeas 69, nays 74, as follows:

YEAS.—Messrs. Adams, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Comstock, Crafts, Cushman, Darlington, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Hopkinson, Hostetter, Hubbard, Hunter, Irving of New York, Kinsey, Kirtland, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Mason of Rhode Island, Merrill, Mills, Samuel Moore, Murray, Jeremiah Nelson, Ogle, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Schuyler, Sergeant, Sherwood, Silsbee, Southard, Tallmadge, Tarr, Taylor, Terry, Tompkins, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, and Wilson of Pennsylvania.

NAYS.—Messrs. Abbott, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bayley, Beecher, Bloomfield, Blount, Burwell, Butler of Louisiana, Campbell, Cobb, Colston, Cook, Crawford, Culbreth, Davidson, Desha, Earle, Edwards, Ervin of South Carolina, Floyd, Hall of North Carolina, Harrison, Hogg, Holmes, Huntington, Johnson of Virginia, Johnson of Kentucky, Jones, Lewis, Little, Lowndes, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, H. Nelson, T. M. Nelson, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Reed of Georgia, Rhea, Ringgold, Robertson, Settle, Seybert, S. Smith, Ballard Smith, Alexander Smyth, Speed, Stewart of North Carolina, Strother, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, and Williams of North Carolina.

All the said amendments were then concurred in, except that which proposes to strike out the following clause: "The further introduction of slavery or involuntary servitude, be prohibited, except for the punishment of crimes, whereof the party shall have been duly convicted. And that all children of slaves born within the said State, after the admission thereof into the Union, shall be free, but may be held to service until the age of twenty-five years;" and insert, "the Legislature of the said State shall never interfere with the primary disposal of the soil, by the United States, nor with any regulations Congress may find necessary for securing the titles in such soil, to the bona fide purchasers; and that no tax shall be imposed on lands, the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents."

Mr. ADAMS opposed the concurrence at some length.

The question was then taken to concur with the Senate in striking out the said clause, and determined in the negative—yeas 76, nays 78, as follows:

YEAS.—Messrs. Abbott, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bayley, Bloomfield, Blount, Burwell, Butler of Louisiana, Cobb, Colston, Cook, Crawford, Cruger, Culbreth, Davidson, Desha, Earle, Edwards, Ervin of South Carolina, Fisher, Floyd, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, H. Nelson, T. M. Nelson, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Quarles, Reed of Maryland, Reed of Georgia, Rhea, Ringgold, Robertson, Settle, S. Smith, Bal. Smith, Alex. Smyth, Speed, Stewart of North Carolina, Strother, Stewart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, and Williams of North Carolina.

NAYS.—Messrs. Adams, Allen, Anderson of Pennsylvania, Barber of Ohio, Bateman, Beecher, Bennett, Boden, Boss, Campbell, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kinsey, Kirtland, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Mason of Rhode Island,

Merrill, Mills, Robert Moore, Samuel Moore, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Schuyler, Sergeant, Seybert, Sherwood, Silsbee, Southard, Tallmadge, Tarr, Taylor, Terry, Tompkins, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, and Wilson of Pennsylvania.

So the House refused to agree with the Senate in striking out the clause, and the bill was returned to the Senate.

House Adheres.

A message was received from the Senate, announcing that they adhered to their amendment (striking out the restriction of slavery) to the bill authorizing a State Government for the Missouri Territory.

The said message was then taken up; when

Mr. TAYLOR moved that this House adhere to its disagreement to said amendment; which motion brought on a renewal of the debate on the subject; in which the restriction was zealously supported by Messrs. TAYLOR, MILLS, and TALLMADGE, and as zealously opposed by Mr. COBB.

Mr. COBB observed that he did not rise for the purpose of detaining the attention of the House for any length of time. He was too sensible of the importance of each moment which yet remained of the session, to obtrude many remarks upon their patience. But, upon a measure involving the important consequences that this did, he felt it to be an imperious duty to express his sentiments, and to enter his most solemn protest against the principle proposed for adoption by the amendment. Were gentlemen aware of what they were about to do? Did they foresee no evil consequences likely to result out of the measure if adopted? Could they suppose that the Southern States would submit with patience to a measure, the effect of which would be to exclude them from all enjoyment of the vast region purchased by the United States beyond the Mississippi, and which belonged equally to them as to the Northern States? He ventured to assure them that they would not. The people of the slaveholding States, as they are called, know their rights, and will insist upon the enjoyment of them. He should not now attempt to go over ground already occupied by others, with much more ability, and attempt to show that, by the treaty with France, the people of that territory were secured in the enjoyment of the property which they held in their slaves. That the proposed amendment was an infraction of this treaty, had been most clearly shown. Nor would he attempt to rescue from slander the character of the people of the Southern States in their conduct towards, and treatment of, their black population. That had also been done, with a degree of force and eloquence to which he could pretend no claim, by the gentleman from Virginia, (Mr. BARBOUR,) and the honorable Speaker. He was, however, clearly of opinion that Congress possessed no power under the constitution to adopt the principle proposed in the amendment. He called upon the advocates of it to point out, and lay their finger upon, that clause of the Constitution of the United States which gives to this body the right to legislate upon the subject. Could they show in what clause or section this right was expressly given, or from which it could be inferred? Unless this authority could be shown, Congress would be assuming a power, if the amendment prevailed, not delegated to them, and most dangerous in its exercise. What is the end and tendency of the measure proposed? It is to impose upon the State of Missouri conditions not imposed upon any other State. It is to deprive her of one branch of sovereignty not surrendered by any other State in the Union, not even those beyond the Ohio; for all of them had legislated upon this subject: all of them had decided for themselves whether slavery should be tolerated at the time they framed their several constitutions. He would not now discuss the propriety of admitting slavery. It is not now a question whether it is politic or impolitic to tolerate slavery in the United States, or in a particular State. It was a discussion into which he would not permit himself to be dragged. Admit, however, its moral impropriety: yet there was a vast difference between moral impropriety and political sovereignty. The people of New York or Pennsylvania may deem it highly immoral and politically improper to permit slavery, but yet they possess the sovereign right and power to permit it, if they choose. They can to-morrow so alter their constitutions and laws as to admit it, if they were so disposed. It is a branch of sovereignty which the old thirteen States never surrendered in the adoption of the Federal Constitution. Now the bill proposes that the new State shall be admitted upon an equal footing with the other States of the Union. It is in this way only that she can be admitted, under the constitution. These words can have no other meaning than that she shall be required to surrender no more of her rights of sovereignty, than the other States, into a union with which she is about to be admitted, have surrendered. But if the proposed amendment is adopted, will not this new State be shorn of one branch of her sovereignty, one right, which the other States may and have exercised, (whether properly or not is immaterial,) and do now exercise whenever they think fit.

Mr. C. observed that he did conceive the principle involved in the amendment pregnant with danger. It was one, he repeated, to which he believed the people of the region of country which he represented would not quietly submit. He might perhaps subject himself to ridicule for attempting the display of a spirit of prophecy which he did not possess, or of zeal and enthusiasm for which he was entitled to little credit. But he warned the advocates of this measure against the certain effects which it must produce. Effects destructive of the

peace and harmony of the Union. He believed that they were kindling a fire which all the waters of the ocean could not extinguish. It could be extinguished only in blood!

The question was finally taken on adhering to the former decision of the House, and decided in the affirmative, by yeas and nays. For adhering 78, against it 66, as follows:

YEAS.—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Barber of Ohio, Bateman, Beecher, Bennett, Boss, Campbell, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kinsey, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Mason of Rhode Island, Merrill, Mills, Robert Moore, Samuel Moore, Mosely, Murray, J. Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Schuyler, Sergeant, Sherwood, Silsbee, Southard, Tallmadge, Tarr, Taylor, Terry, Tompkins, Upham, Wallace, Wendover, Westerlo, Whiteside, Whitman, Wilkin, Williams of Connecticut, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS.—Messrs. Abbott, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bayley, Bloomfield, Blount, Burwell, Butler of Louisiana, Cobb, Colston, Crawford, Davidson, Desha, Edwards, Ervin of South Carolina, Fisher, Floyd, Garnett, Harrison, Herbert, Hogg, Holmes, Johnson of Virginia, Jones, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, H. Nelson, T. M. Nelson, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Reed of Georgia, Rhea, Ringgold, Settle, S. Smith, Ballard Smith, Alexander Smyth, Speed, Stewart of North Carolina, Storrs, Strother, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of Kentucky, and Williams of North Carolina.

The adherence of the two Houses to their respective opinions, precluding any further propositions or compromise on the subject, the bill was of course lost.*

WEDNESDAY, March 3.

Six o'clock, P. M.

Mr. TAYLOR moved the House to come to the following order:

* This was the end of the bill, and it left the two Houses geographically divided, and the same division extending itself with electric speed to the States. It was a period of deep apprehension, filling with dismay the hearts of the steadiest patriots. It would be nine months before Congress would sit again. The agitation, great as it was, was to become greater, and no one could foresee its bounds. The movement to put the slavery restriction on Arkansas, and the close and equivocal votes on that question, greatly aggravated the Missouri question, and seemed to menace the slave States with total exclusion from the province of Louisiana. To judge of the feelings and the apprehensions of that day, this movement to restrict Arkansas, as well as Missouri, must be remembered, and how much it increased the heats of the controversy.

Ordered, That no printing directed by this House to be executed shall be received from the printer, by the officers thereof, after the first day of May next.

The bill from the Senate, entitled "An act to establish a new land office in the State of Illinois," was read the first time; and, on the question, "Shall the said bill be read the second time?" there appeared—yeas 70, nays 21, as follows:

YEAS.—Messrs. Abbott, Austin, Baldwin, Ball, Barbour of Virginia, Barber of Ohio, Bayley, Butler of Louisiana, Cobb, Comstock, Davidson, Drake, Ellicott, Fisher, Floyd, Folger, Garnett, Gilbert, Hall of North Carolina, Harrison, Hendricks, Herrick, Holmes, Hubbard, Irving of New York, Johnson of Virginia, Jones, Lewis, Lincoln, Linn, Livermore, McLean of Illinois, Mason of Massachusetts, Mercer, Middleton, Samuel Moore, Mosely, Jeremiah Nelson, H. Nelson, Newton, Ogle, Owen, Palmer, Parrott, Pegram, Peter, Pitkin, Reed of Maryland, Reed of Georgia, Rhea, Rich, Ringgold, Rogers, Ruggles, Sampson, Settle, Seybert, Silsbee, Speed, Storrs, Stuart of Maryland, Tarr, Tyler, Upham, Walker of North Carolina, Walker of Kentucky, Westerlo, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS.—Messrs. Adams, Bateman, Bennett, Darlington, Earle, Hopkinson, Little, McLane of Delaware, W. Maclay, W. P. Maclay, Murray, Ogden, Schuyler, Sergeant, S. Smith, Southard, Tallmadge, Terrell, Terry, Whitman, and Williams of Connecticut.

Thus it appeared that a quorum was not present.

The House proceeded, by ballot, to the election of a printer, to execute the printing ordered by the House of Representatives during the next Congress, in pursuance of the "Resolution directing the manner in which the printing of Congress shall be executed, fixing the prices thereof, and for the appointment of a printer or printers to Congress." And, upon an examination of the ballots, it appeared that JOSEPH GALES, Jr., and WILLIAM W. SEATON, under the firm of GALES and SEATON, were duly elected.

A message from the Senate informed the House that the Senate have elected Gales and Seaton, printers on their part, to execute the printing of the Senate during the next Congress, pursuant to the resolution on that subject. They have passed a resolution for the appointment of a joint committee to wait on the President of the United States, and inform him that the two Houses of Congress are about to adjourn, if he has no further communications to make to them, and have appointed a committee on their part.

The said resolution was read and concurred in by the House, and Messrs. PITKIN and HARRISON were appointed of the said committee on their part.

Thanks to the Speaker.

On motion of Mr. HUGH NELSON, it was

Resolved, unanimously, That the thanks of this House be presented to the honorable Henry Clay, for the able, impartial, and dignified manner in which

he has presided over its deliberations, and performed the arduous and important duties of the Chair.

Upon which Mr. CLAY rose, and addressed the House as follows:

I beg you to receive, gentlemen, my most respectful acknowledgments for the flattering vote you have done me the honor to pass. Always entertaining for this House the highest consideration, the expression of your approbation conveys a gratification as pure as it is indescribable. I owe it to truth, however, to say, gentlemen, that, but for the almost unlimited confidence with which you have constantly sustained the Chair, I should have been utterly incompetent to discharge its arduous duties.

If, gentlemen, in the course of our deliberations, momentary irritation has been at any time felt, or unkind expressions have ever, in the heat of debate, fallen from any of us, let these unpleasant incidents be consigned to oblivion, and let us recollect only the anxious desire which has uniformly animated every one to promote what appeared to him to be for the prosperity of our common country.

One painful circumstance fills me with the deepest regret. It is that, after having co-operated with many of you, with some for years, to advance the public good, we separate to meet perhaps no more. I here bear testimony to the fidelity with which you have all labored to fulfil the high and honorable trust committed to us by the nation. And every one of you will carry with you my most ardent wishes for your individual welfare and happiness.

Mr. PITKIN, from the joint committee appointed to inform the President of the United States that the two Houses of Congress are about to adjourn, if he had no further communications to make to them, reported that the committee had waited on the President of the United States, and was informed by him that he had no further communications to make.

A message was then received from the Senate informing the House that the Senate, having completed the legislative business before them, are ready to adjourn; whereupon, the House adjourned *sine die*.

SIXTEENTH CONGRESS.—FIRST SESSION.

BEGUN AT THE CITY OF WASHINGTON, DECEMBER 6, 1819.

PROCEEDINGS IN THE SENATE.*

MONDAY, December 6, 1819.

The first session of the Sixteenth Congress, conformably to the Constitution of the United States, commenced this day at the city of Washington, and the Senate assembled.

PRESENT.

DAVID L. MORRILL and JOHN F. PARROTT, from New Hampshire.

PRENTISS MELLEN and HARRISON GRAY OTIS, from Massachusetts.

JAMES BURRILL, jr., and WILLIAM HUNTER, from Rhode Island and Providence Plantations.

ISAAC TICHENOR and WILLIAM A. PALMER, from Vermont.

SAMUEL W. DANA and JAMES LANMAN, from Connecticut.

NATHAN SANFORD, from New York.

MAHLON DICKERSON and JAMES J. WILSON, from New Jersey.

JONATHAN ROBERTS and WALTER LOWRIE, from Pennsylvania.

OUTERBRIDGE HORSEY and NICHOLAS VAN DYKE, from Delaware.

JAMES BARBOUR, from Virginia.

NATHANIEL MACON, from North Carolina.

JOHN GAILLARD and WILLIAM SMITH, from South Carolina.

JOHN ELLIOTT, from Georgia.

WILLIAM LOGAN, from Kentucky.

JOHN WILLIAMS and JOHN HENRY EATON, from Tennessee.

BENJAMIN RUGGLES and WILLIAM A. TRIMBLE, from Ohio.

JAMES BROWN, from Louisiana.

JAMES NOBLE and WALLER TAYLOR, from Indiana.

WALTER LEAKE and THOMAS H. WILLIAMS, from Mississippi.

NINIAN EDWARDS and JESSE B. THOMAS, from Illinois.

JAMES BARBOUR, President *pro tempore*, resumed the Chair.

JAMES LANMAN, appointed a Senator by the Legislature of the State of Connecticut, for the term of six years, commencing on the fourth day of March last; NATHANIEL MACON, appointed a Senator by the Legislature of the State of North Carolina, for the term of six years, commencing on the fourth day of March last; JOHN HENRY EATON, appointed a Senator by the Legislature of the State of Tennessee, for the term of two years, in place of George W. Campbell, resigned; JOHN ELLIOTT, appointed a Senator by the Legislature of the State of Georgia, for the term of six years, commencing on the fourth day of March last; WILLIAM A. TRIMBLE, appointed a Senator by the Legislature of the State of Ohio, for the term of six years, commencing on the fourth day of March last; JAMES BROWN, appointed a Senator by the Legislature of the State of Louisiana, for the term of six years, commencing on the fourth day of March last; and NINIAN EDWARDS, ap-

* LIST OF MEMBERS OF THE SENATE.

New Hampshire.—David L. Morrill, John F. Parrott.
Massachusetts.—Prentiss Mellen, Harrison Gray Otis.
Connecticut.—Samuel W. Dana, James Lanman.
Vermont.—Isaac Tichenor, William A. Palmer.
Rhode Island.—James Burrill, jr., William Hunter.
New York.—Nathan Sanford, Rufus King.
Pennsylvania.—Jonathan Roberts, Walter Lowrie.
New Jersey.—Mahlon Dickerson, James J. Wilson.
Delaware.—Outerbridge Horsey, Nicholas Vandyke.
Maryland.—Edward Lloyd, William Pinkney.
Virginia.—James Barbour, James Pleasants.
North Carolina.—Nathaniel Macon, Montfort Stokes.
South Carolina.—John Gaillard, William Smith.
Georgia.—John Elliott, Freeman Walker.
Kentucky.—William Logan, Richard M. Johnson.
Tennessee.—John H. Eaton, John Williams.
Ohio.—Benjamin Ruggles, William A. Trimble.
Louisiana.—James Brown, Henry Johnson.
Alabama.—William Rufus King, John W. Walker.
Indiana.—James Noble, Waller Taylor.
Mississippi.—Walter Leake, Thomas H. Williams.
Illinois.—Ninian Edwards, Jesse B. Thomas.

pointed a Senator by the Legislature of the State of Illinois, for the term of six years, commencing on the fourth day of March last; respectfully produced their credentials, were qualified, and took their seats in the Senate.

The oath was also administered to Mr. PALMER, Mr. GAILLARD, Mr. PARROTT, Mr. LOWRIE, and Mr. TAYLOR, their credentials having been filed during the last session.

WILLIAM LOGAN, appointed a Senator by the Legislature of the State of Kentucky, for the term of six years, commencing on the fourth day of March last, stated that he had neglected bringing his credentials with him, expecting they would be forwarded to the Senate by the proper authority of the State, and which he still supposed would speedily be done; whereupon the oath prescribed by law was administered to him, and he took his seat in the Senate.

A quorum being present, and the House of Representatives being advised thereof, the Senate proceeded to business.

Alabama State Government.

The PRESIDENT laid before the Senate a copy of the constitution of government formed by the people of the State of Alabama, which was referred to a committee, consisting of Messrs. WILLIAMS of Mississippi, BROWN and MACON, to consider and report thereon.

Death of Senator Hanson.

On motion of Mr. SANFORD,

Resolved, That the members of the Senate wear the usual mourning for thirty days, as a mark of respect to the memory of the honorable ALEXANDER C. HANSON, a Senator from Maryland, who has deceased since the last session.

TUESDAY, December 7.

Mr. BURRILL reported, from the joint committee, that they had waited on the President of the United States, and that the President informed the committee that he would make a communication to the two Houses this day.

President's Message.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Fellow-citizens of the Senate
and of the House of Representatives:

The public buildings being advanced to a stage to afford accommodation for Congress, I offer you my sincere congratulations on the recommencement of your duties in the Capitol.

In bringing to view the incidents most deserving attention, which have occurred since your last session, I regret to have to state, that several of our principal cities have suffered by sickness; that an unusual drought has prevailed in the Middle and Western States; and that a derangement has been felt in some of our moneyed institutions, which has proportionably affected their credit. I am happy, however, to have it in my power to assure you that the health of our cities is now completely restored; that the produce of the year, though less abundant than usual, will not only be amply sufficient for home consumption, but afford a large surplus, for the supply of the wants of other nations; and that the derangement in the circulating paper medium, by being left to those remedies which its obvious causes suggested, and the good sense and virtue of our fellow-citizens supplied, has diminished.

Having informed Congress, on the 27th of February last, that a treaty of amity, settlement, and limits, had been concluded, in this city, between the United States and Spain, and ratified by the competent authorities of the former, full confidence was entertained that it would have been ratified by His Catholic Majesty, with equal promptitude, and a like earnest desire to terminate, on the condition of that treaty, the differences which had so long existed between the two countries. Every view, which the subject admitted of, was thought to have justified this conclusion. Great losses had been sustained by citizens of the United States, from Spanish cruisers, more than twenty years before, which had not been redressed. These losses had been acknowledged and provided for by a treaty, as far back as the year 1802, which, although concluded at Madrid, was not then ratified by the Government of Spain, nor since, until the last year, when it was suspended by the late treaty, a more satisfactory provision to both parties, as was presumed, having been made for them. Other differences had arisen, in this long interval, affecting their highest interests, which were likewise provided for by this last treaty. The treaty itself was formed on great consideration, and a thorough knowledge of all circumstances, the subject-matter of every article having been for years under discussion, and repeated references having been made, by the Minister of Spain, to his Government, on the points respecting which the greatest difference of opinion prevailed. It was formed by a Minister duly authorized for the purpose, who had represented his Government in the United States, and been employed, in this long protracted negotiation, several years; and who, it is not denied, kept strictly within the letter of his instructions. The faith of Spain was therefore pledged, under circumstances of peculiar force and solemnity, for its ratification.

On the part of the United States, this treaty was evidently acceded to in a spirit of conciliation and concession. The indemnity for injuries and losses, so long before sustained, and now again acknowledged and provided for, was to be paid by them, without becoming a charge on the treasury of Spain. For territory ceded by Spain, other territory of great value, to which our claim was believed to be well founded, was ceded by the United States, and in a quarter more interesting to her. This cession was, nevertheless, received, as the means of indemnifying our citizens, in a considerable sum, the presumed amount of their losses. Other considerations, of great weight, urged the cession of this territory by Spain. It was surrounded by the territories of the United States, on every side, except on that of the ocean. Spain had lost her authority over it, and, falling into the hands of adventurers connected with the savages, it was made the means of unceasing annoyance and injury in our Union, in many of its most essential interests. By this cession, then, Spain ceded a territory, in reality, of no value to her,

and obtained concessions of the highest importance, by the settlement of long-standing differences with the United States, affecting their respective claims and limits, and likewise relieved herself from the obligation of a treaty relating to it, which she had failed to fulfil, and also from the responsibility incident to the most flagrant and pernicious abuses of her rights, where she could not support her authority.

It being known that the treaty was formed under these circumstances, not a doubt was entertained that His Catholic Majesty would have ratified it without delay. I regret to have to state, that this reasonable expectation has been disappointed; that the treaty was not ratified within the time stipulated, and has not since been ratified. As it is important that the nature and character of this unexpected occurrence should be distinctly understood, I think it my duty to communicate to you all the facts and circumstances, in my possession, relating to it.

Anxions to prevent all future disagreement with Spain, by giving the most prompt effect to the treaty, which had been thus concluded, and, particularly, by the establishment of a government in Florida, which should preserve order there, the Minister of the United States, who had been recently appointed to His Catholic Majesty, and to whom the ratification, by his Government, had been committed, to be exchanged for that of Spain, was instructed to transmit the latter to the Department of State, as soon as obtained, by a public ship, subjected to his order for the purpose. Unexpected delay occurring in the ratification, by Spain, he requested to be informed of the cause. It was stated, in reply, that the great importance of the subject, and a desire to obtain explanations on certain points, which were not specified, had produced the delay, and that an Envoy would be despatched to the United States to obtain such explanations of this Government. The Minister of the United States offered to give full explanations on any point on which it might be desired; which proposal was declined. Having communicated this result to the Department of State, in August last, he was instructed, notwithstanding the disappointment and surprise which it produced, to inform the Government of Spain, that, if the treaty should be ratified, and transmitted here, at any time before the meeting of Congress, it would be received, and have the same effect as if it had been ratified in due time. This order was executed; the authorized communication was made to the Government of Spain, and by its answer, which has just been received, we are officially made acquainted, for the first time, with the causes which have prevented the ratification of the treaty, by His Catholic Majesty. It is alleged by the Minister of Spain, that this Government had attempted to alter one of the principal articles of the treaty, by a declaration, which the Minister of the United States had been ordered to present when he should deliver the ratification by his Government, in exchange for that of Spain, and of which he gave notice, explanatory of the sense in which that article was understood. It is further alleged that this Government had recently tolerated or protected an expedition from the United States, against the province of Texas. These two imputed acts are stated as the reasons which have induced His Catholic Majesty to withhold his ratification from the treaty, to obtain explanations, respecting which, it is repeated, that an Envoy would be forthwith despatched to the United States. How far these allegations will justify the conduct of the Government of Spain, will appear, on a view of the following facts, and the evidence which supports them.

It will be seen, by the documents transmitted herewith, that the declaration mentioned relates to a clause in the eighth article, concerning certain grants of land, recently made by His Catholic Majesty in Florida, which, it was understood, had conveyed all the lands, which, till then, had been ungranted. It was the intention of the parties to annul these latter grants, and that clause was drawn for that express purpose, and for none other. The date of these grants was unknown, but it was understood to be posterior to that inserted in the article. Indeed, it must be obvious to all, that, if that provision in the treaty had not the effect of annulling these grants, it would be altogether nugatory. Immediately after the treaty was concluded and ratified by this Government, an intimation was received that these grants were of anterior date to that fixed on by the treaty, and that they would not, of course, be affected by it. The mere possibility of such a case, so inconsistent with the intention of the parties, and the meaning of the article, induced this Government to demand an explanation on the subject, which was immediately granted, and which corresponds with this statement. With respect to the other act alleged, that this Government had tolerated or protected an expedition against Texas, it is utterly without foundation. Every discountenance has invariably been given to any such attempt from within the limits of the United States, as is fully evinced by the acts of the Government, and the proceedings of the courts. There being cause, however, to apprehend, in the course of the last Summer, that some adventurers entertained views of the kind suggested, the attention of the constituted authorities in that quarter was immediately drawn to them, and it is known that the project, whatever it might be, has utterly failed.

These facts will, it is presumed, satisfy every impartial mind that the Government of Spain had no justifiable cause for declining to ratify the treaty. A treaty concluded in conformity with instructions, is obligatory, in good faith, in all its stipulations, according to the true intent and meaning of the parties. Each party is bound to ratify it. If either could set it aside, without the consent of the other, there would be no longer any rules applicable to such transactions between nations. By this proceeding, the Government of Spain has rendered to the United States a new and very serious injury. It has been stated that a Minister would be sent, to ask certain explanations of this Government. But if such were desired, why were they not asked within the time limited for the ratification? Is it contemplated to open a new negotiation respecting any of the articles or conditions of the treaty? If that were done, to what consequences might it not lead? At what time, and in what manner, would a new negotiation terminate? By this proceeding, Spain has formed a relation between the two countries which will justify any measures on the part of the United States, which a strong sense of injury, and a proper regard for the rights and interests of the nation may dictate. In the course to be pursued, these objects should be constantly held in view, and have their due weight. Our national honor must be maintained, and a new and a distinguished proof be afforded of that regard for justice and moderation which has invariably governed the councils of this free peo-

ple. It must be obvious to all, that, if the United States had been desirous of making conquests, or had been even willing to aggrandize themselves in that way, they could have had no inducement to form this treaty. They would have much cause for gratulation at the course which has been pursued by Spain. An ample field for ambition is opened before them. But such a career is not consistent with the principles of their Government, nor the interests of the nation.

From a full view of all circumstances, it is submitted to the consideration of Congress, whether it will not be proper for the United States to carry the conditions of the treaty into effect, in the same manner as if it had been ratified by Spain; claiming, on their part, all its advantages, and yielding to Spain those secured to her. By pursuing this course we shall rest on the sacred ground of right, sanctioned, in the most solemn manner, by Spain herself, by a treaty which she was bound to ratify, for refusing to do which she must incur the censure of other nations, even those most friendly to her; while, by confining ourselves within that limit, we cannot fail to obtain their well merited-approbation. We must have peace on a frontier where we have been so long disturbed; our citizens must be indemnified for losses so long since sustained, and from which indemnity has been so unjustly withheld from them. Accomplishing these great objects, we obtain all that is desirable.

But His Catholic Majesty has twice declared his determination to send a Minister to the United States to ask explanations on certain points, and to give them respecting his delay to ratify the treaty. Shall we act, by taking the ceded territory, and proceeding to execute the other conditions of the treaty, before this Minister arrives and is heard? This is a case which forms a strong appeal to the candor, the magnanimity, and the honor of this people. Much is due to courtesy between nations. By a short delay we shall lose nothing; for, resting on the ground of immutable truth and justice, we cannot be diverted from our purpose. It ought to be presumed that the explanations which may be given to the Minister of Spain will be satisfactory, and produce the desired result. In any event, the delay, for the purpose mentioned, being a further manifestation of the sincere desire to terminate in the most friendly manner all differences with Spain, cannot fail to be duly appreciated by His Catholic Majesty, as well as by other powers. It is submitted, therefore, whether it will not be proper to make the law proposed for carrying the conditions of the treaty into effect, should it be adopted, contingent; to suspend its operation upon the responsibility of the Executive, in such manner as to afford an opportunity for such friendly explanations as may be desired during the present session of Congress.

I communicate to Congress a copy of the treaty, and of the instructions to the Minister of the United States at Madrid respecting it; of his correspondence with the Minister of Spain, and of such other documents as may be necessary to give a full view of the subject.

In the course which the Spanish Government have, on this occasion, thought proper to pursue, it is satisfactory to know that they have not been countenanced by any other European power. On the contrary, the opinion and wishes, both of France and Great Britain, have not been withheld, either from the United States or from Spain; and have been unequivocal in favor of the ratification. There is also reason to believe that the sentiments of the imperial Government of Russia have been the same, and that they have also been made known to the Cabinet of Madrid.

In the civil war existing between Spain and the Spanish provinces in this hemisphere, the greatest care has been taken to enforce the laws intended to preserve an impartial neutrality. Our ports have continued to be equally open to both parties, and on the same conditions; and our citizens have been equally restrained from interfering in favor of either to the prejudice of the other. The progress of the war, however, has operated manifestly in favor of the colonies. Buenos Ayres still maintains unshaken the independence which it declared in 1816, and has enjoyed since 1810. Like success has also lately attended Chili, and the provinces north of the La Plata, bordering on it, and likewise Venezuela.

This contest has, from its commencement, been very interesting to other powers, and to none more so than to the United States. A virtuous people may, and will, confine themselves within the limit of strict neutrality; but it is not in their power to behold a conflict so vitally important to their neighbors, without the sensibility and sympathy which naturally belong to such a case. It has been the steady purpose of this Government to prevent that feeling leading to excess, and it is very gratifying to have it in my power to state that, so strong has been the sense throughout the whole community, of what was due to the character and obligations of the nation, that very few examples of a contrary kind have occurred.

The distance of the colonies from the parent country, and the great extent of their population and resources, gave them advantages which it was anticipated at a very early period it would be difficult for Spain to surmount. The steadiness, consistency, and success, with which they have pursued their object, as evinced more particularly by the undisturbed sovereignty which Buenos Ayres has so long enjoyed, evidently give them a strong claim to the favorable consideration of other nations. These sentiments, on the part of the United States, have not been withheld from other powers, with whom it is desirable to act in concert. Should it become manifest to the world that the efforts of Spain to subdue these provinces will be fruitless, it may be presumed that the Spanish Government itself will give up the contest. In producing such a determination, it cannot be doubted that the opinion of friendly powers, who have taken no part in the controversy, will have their merited influence.

It is of the highest importance to our national character, and indispensable to the morality of our citizens, that all violations of our neutrality should be prevented. No door should be left open for the evasion of our laws; no opportunity afforded to any who may be disposed to take advantage of it, to compromit the interest or the honor of the nation. It is submitted, therefore, to the consideration of Congress, whether it may not be advisable to revise the laws; with a view to this desirable result.

It is submitted, also, whether it may not be proper to designate, by law, the several ports or places along the coast, at which, only, foreign ships of war and privateers may be admitted. The difficulty of sustaining the regulations of our commerce, and of

other important interests from abuse, without such designation, furnishes a strong motive for this measure.

At the time of the negotiation for the renewal of the commercial convention between the United States and Great Britain, a hope had been entertained that an article might have been agreed upon, mutually satisfactory to both countries, regulating, upon principles of justice and reciprocity, the commercial intercourse between the United States and the British possessions, as well in the West Indies, as upon the continent of North America. The Plenipotentiaries of the two Governments not having been able to come to an agreement on this important interest, those of the United States reserved for the consideration of this Government the proposals which had been presented to them, as the ultimate offer on the part of the British Government, and which they were not authorized to accept. On their transmission here, they were examined with due deliberation, the result of which was a new effort to meet the views of the British Government. The Minister of the United States was instructed to make a further proposal, which has not been accepted. It was, however, declined in an amicable manner. I recommend to the consideration of Congress, whether further prohibitory provisions in the laws relating to this intercourse may not be expedient. It is seen, with interest, that, although it has not been practicable, as yet, to agree in any arrangement of this important branch of their commerce, such is the disposition of the parties, that each will view any regulations which the other may make respecting it, in the most friendly light.

By the 5th article of the convention, concluded on the 20th of October, 1818, it was stipulated that the difference which has arisen between the two Governments, with regard to the true intent and meaning of the 5th article of the Treaty of Ghent, in relation to the carrying away, by British officers, of slaves from the United States, after the exchange of the ratifications of the Treaty of Peace, should be referred to the decision of some friendly Sovereign or State, to be named for that purpose. The Minister of the United States has been instructed to name to the British Government a foreign Sovereign, the common friend to both parties, for the decision of this question. The answer of that Government to the proposal, when received, will indicate the further measures to be pursued on the part of the United States.

Although the pecuniary embarrassments which affected various parts of the Union, during the latter part of the preceding year, have, during the present, been considerably augmented, and still continue to exist, the receipts into the Treasury, to the 30th of September last, have amounted to $19,000,000. After defraying the current expenses of the Government, including the interest and reimbursement of the public debt, payable to that period, amounting to $18,200,000, there remained to the Treasury, on that day, more than $2,500,000, which, with the sums receivable during the remainder of the year, will exceed the current demands upon the Treasury for the same period.

The causes which have tended to diminish the public receipts, could not fail to have a corresponding effect upon the revenue which has accrued upon imposts and tonnage during the three first quarters of the present year; it is, however, ascertained that the duties, which have been secured during that period, exceed $18,000,000, and those of the whole year will probably amount to $23,000,000.

For the probable receipts of the next year, I refer you to the statements which will be transmitted from the Treasury, which will enable you to judge whether further provision be necessary.

The great reduction in the price of the principal articles of domestic growth, which has occurred during the present year, and the consequent fall in the price of labor, apparently so favorable to the success of domestic manufactures, have not shielded them against other causes adverse to their prosperity. The pecuniary embarrassments which have so deeply affected the commercial interests of the nation, have been no less adverse to our manufacturing establishments in several sections of the Union. The great reduction of the currency, which the banks have been constrained to make, in order to continue specie payments, and the vitiated character of it where such reductions have not been attempted, instead of placing within the reach of these establishments the pecuniary aid necessary to avail themselves of the advantages resulting from the reduction in the prices of the raw materials, and of labor, have compelled the banks to withdraw from them a portion of the capital heretofore advanced to them. That aid, which has been refused by the banks, has not been obtained from other sources, owing to the loss of individual confidence, from the frequent failures which have recently occurred in some of our principal commercial cities.

An additional cause for the depression of these establishments may probably be found in the pecuniary embarrassments which have recently affected those countries with which our commerce has been principally prosecuted.

Their manufactures, for the want of a ready or profitable market at home, have been shipped by the manufacturers to the United States, and, in many instances, sold at a price below their current value at the place of manufacture. Although this practice may, from its nature, be considered temporary or contingent, it is not on that account less injurious in its effects. Uniformity in the demand and price of an article is highly desirable to the domestic manufacturer.

It is deemed of great importance to give encouragement to our domestic manufactures. In what manner the evils which have been adverted to may be remedied, and how far it may be practicable, in other respects, to afford to them further encouragement, paying due regard to the other great interests of the nation, is submitted to the wisdom of Congress.

The survey of the coast, for the establishment of fortifications, is now nearly completed, and considerable progress has been made in the collection of materials for the construction of fortifications in the Gulf of Mexico and in the Chesapeake Bay. The works on the Eastern bank of the Potomac, below Alexandria, and on the Pea Patch in the Delaware, are much advanced, and it is expected that the fortifications at the Narrows, in the harbor of New York, will be completed the present year. To derive all the advantages contemplated from these fortifications, it was necessary that they should be judiciously posted, and constructed with a view to permanence. The progress, hitherto, has therefore been slow; but, as the difficulties, in parts heretofore the least explored and known, are surmounted, it will in future

be more rapid. As soon as the survey of the coast is completed, which it is expected will be done early in the next Spring, the engineers employed in it will proceed to examine, for like purposes, the northern and north-western frontiers.

The troops, intended to occupy a station at the mouth of the St. Peter's, on the Mississippi, have established themselves there, and those who were ordered to the mouth of the Yellow Stone, on the Missouri, have ascended that river to the Council Bluff, where they will remain until the next Spring, when they will proceed to the place of their destination. I have the satisfaction to state, that this measure has been executed in amity with the Indian tribes, and that it promises to produce, in regard to them, all the advantages which are contemplated by it.

Much progress has likewise been made in the construction of ships-of-war, and in the collection of timber and other materials for ship-building. It is not doubted that our Navy will soon be augmented to the number, and placed, in all respects, on the footing provided for by law.

The board, consisting of engineers and naval officers, have not yet made their final report of sites for two naval depots, as instructed, according to the resolutions of March 18th, and April 20th, 1818, but they have examined the coast therein designated, and their report is expected in the next month.

For the protection of our commerce in the Mediterranean; along the Southern Atlantic coast; in the Pacific and Indian Oceans; it has been found necessary to maintain a strong naval force, which it seems proper for the present to continue. There is much reason to believe that, if any portion of the squadron heretofore stationed in the Mediterranean should be withdrawn, our intercourse with the powers bordering on that sea would be much interrupted, if not altogether destroyed. Such, too, has been the growth of a spirit of piracy, in the other quarters mentioned, by adventurers from every country, in abuse of the friendly flags which they have assumed, that, not to protect our commerce there, would be to abandon it as a prey to their rapacity.* Due attention has likewise been paid to the suppression of the slave trade, in compliance with a law of the last session. Orders have been given to the commanders of all our public ships to seize all vessels navigated under our flag, engaged in that trade, and to bring them in, to be proceeded against, in the manner prescribed by that law. It is hoped that these vigorous measures, supported by like acts by other nations, will soon terminate a commerce so disgraceful to the civilized world.

In the execution of the duty imposed by these acts, and of a high trust connected with it, it is with deep regret I have to state the loss which has been sustained by the death of Commodore Perry. His gallantry, in a brilliant exploit, in the late war, added to the renown of his country. His death is deplored as a national misfortune.

JAMES MONROE.

WASHINGTON, *December* 7, 1819.

The Message and accompanying documents were read, and three thousand copies thereof ordered to be printed for the use of the Senate.

* In the early administrations, ships of war were not sent out to protect commerce, except against powers and depredators not amenable to the laws of nations—such as the Barbary Powers and pirates: and when so sent, the fact was always communicated to Congress, and the reason for it given. The idea of sending out squadrons without a specific object—without a known danger to avert—was then unknown. They were sent out to attend to a known, or apprehended danger, from lawless depredators, and nothing else. The civil Government at home reserved to itself the settlement of injuries to commerce from the civilized nations.

MONDAY, December 13.

Mr. BROWN presented the memorial of William Thornton, Superintendent of the Patent Office, praying an increase of his present compensation; and the memorial was read, and referred to a select committee to consider and report thereon, by bill or otherwise. And Mr. BROWN, Mr. ROBERTS, and Mr. MACON, were appointed the committee.

TUESDAY, December 14.

JAMES PLEASANTS, appointed a Senator by the Legislature of the State of Virginia, to supply the vacancy occasioned by the resignation of JOHN W. EPPES, produced his credentials, was qualified, and took his seat in the Senate.

JOHN W. WALKER, appointed a Senator by the Legislature of the State of Alabama, produced his credentials, was qualified, and took his seat in the Senate.

WEDNESDAY, December 15.

MONTFORD STOKES, from the State of North Carolina, arrived the 14th instant, and attended this day.

FREEMAN WALKER, appointed a Senator by the Legislature of the State of Georgia, to supply the vacancy occasioned by the resignation of John Forsyth, produced his credentials, was qualified, and took his seat in the Senate.

MONDAY, December 20.

Sierra Leone Colony.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

Some doubt being entertained respecting the true intent and meaning of the act of the last session, entitled "An act in addition to the acts prohibiting the slave trade," as to the duties of the agents to be appointed on the coast of Africa, I think it proper to state the interpretation which has been given of the act, and the measures adopted to carry it into effect, that Congress may, should it be deemed advisable, amend the same, before further proceeding is had under it.

The obligation to instruct the commanders of all our armed vessels to seize and bring into port all ships or vessels of the United States, wheresoever found, having on board any negro, mulatto, or person of color, in violation of former acts for the suppression

of the slave trade, being imperative, was executed without delay. No seizures have yet been made, but, as they were contemplated by the law, and might be presumed, it seemed proper to make the necessary regulations, applicable to such seizures, for carrying the several provisions of the act into effect.

It is enjoined on the Executive to cause all negroes, mulattoes, or persons of color, who may be taken under the act, to be removed to Africa. It is the obvious import of the law, that none of the persons thus taken, should remain within the United States; and no place, other than the coast of Africa, being designated, their removal or delivery, whether carried from the United States, or landed immediately from the vessels in which they were taken, was supposed to be confined to that coast. No settlement or station being specified, the whole coast was thought to be left open for the selection of a proper place at which the persons thus taken should be delivered. The Executive is authorized to appoint one or more agents, residing there, to receive such persons; and one hundred thousand dollars are appropriated for the general purposes of the law.

On due consideration of the several sections of the act, and of its humane policy, it was supposed to be the intention of Congress that all the persons above described, who might be taken under it and landed in Africa, should be aided in their return to their former homes, or in their establishment at or near the place where landed. Some shelter and food would be necessary for them there, as soon as landed, let their subsequent disposition be what it might. Should they be landed without such provision having been previously made, they might perish. It was supposed, by the authority given to the Executive to appoint agents residing on that coast, that they should provide such shelter and food, and perform the other beneficent and charitable offices contemplated by the act. The coast of Africa having been little explored, and no persons residing there who possessed the requisite qualifications to entitle them to the trust, being known to the Executive, to none such could it be committed. It was believed that citizens only, who would go hence well instructed in the views of their Government, and zealous to give them effect, would be competent to these duties, and that it was not the intention of the law to preclude their appointment. It was obvious that the longer these persons should be detained in the United States, in the hands of the marshal, the greater would be the expense, and that for the same term would the main purpose of the law be suspended. It seemed, therefore, to be incumbent on me to make the necessary arrangements for carrying this act into effect in Africa, in time to meet the delivery of any persons who might be taken by the public vessels and landed there under it.

On this view of the policy and sanctions of the law, it has been decided to send a public ship to the coast of Africa, with two such agents, who will take with them tools, and other implements, necessary for the purposes above mentioned. To each of these agents a small salary has been allowed—fifteen hundred dollars to the principal, and twelve hundred to the other. All our public agents on the coast of Africa receive salaries for their services, and it was understood that none of our citizens, possessing the requisite qualifications, would accept these trusts, by which they would be confined to parts the least frequented and civilized, without a reasonable compensation. Such allowance, therefore, seemed to be indispensable to the execution of the act. It is intended, also, to subject a portion of the sum appropriated, to the order of the principal agent, for the special objects above stated, amounting in the whole, including the salaries of the agents for one year, to rather less than one-third of the appropriation. Special instructions will be given to these agents, defining, in precise terms, their duties in regard to the persons thus delivered to them; the disbursement of the money by the principal agent; and his accountability for the same. They will also have power to select the most suitable place, on the coast of Africa, at which all persons who may be taken under this act shall be delivered to them, with an express injunction to exercise no power founded on the principle of colonization, or other power than that of performing the benevolent offices above recited, by the permission and sanction of the existing Government under which they may establish themselves. Orders will be given to the commander of the public ship in which they will sail, to cruise along the coast, to give the more complete effect to the principal object of this act.

JAMES MONROE.

DECEMBER, 17, 1819.

The Message was read.

WEDNESDAY, December 22.

WILLIAM R. KING, appointed a Senator by the Legislature of the State of Alabama, produced his credentials, was qualified, and took his seat in the Senate.

On motion, by Mr. WILLIAMS, of Mississippi, *Resolved*, That the Senate proceed to ascertain the classes in which the Senators of the State of Alabama shall be inserted, in conformity to the resolution of the 14th of May, 1789, and as the constitution requires.

That the Secretary put into the ballot-box three papers, of equal size, numbered 1, 2, 3; each Senator shall draw out one paper; the Senator who shall draw No. 1, shall be inserted in the class of Senators whose term of service will expire on the 3d of March, 1821; the Senator who shall draw No. 2, shall be inserted in the class of Senators whose term of service expires on the 3d of March, 1823; and the Senator who shall draw No. 3, shall be inserted in the class of Senators whose term of service expires on the 3d of March, 1825.

Whereupon, the numbers above mentioned were, by the Secretary, rolled up and put into the box; when Mr. KING drew No. 2, and is accordingly of the class of Senators whose terms of service will expire on the 3d of March, 1823; and Mr. WALKER drew No. 3, and is accordingly of the class of Senators whose terms of service will expire on the 3d of March, 1825.

MONDAY, December 27.

DANIEL D. TOMPKINS, Vice President of the United States, and President of the Senate, attended and took the Chair.

EDWARD LLOYD, appointed a Senator by the Legislature of the State of Maryland, to continue as such to the third day of March, 1825, produced his credentials, was qualified, and took his seat.

HENRY JOHNSON, from the State of Louisiana, attended this day.

WEDNESDAY, December 29.

Missouri Territory.

Mr. SMITH presented the memorial of the Legislative Council and House of Representatives of the Missouri Territory, praying to be admitted into the Union, as a separate and independent State; and the memorial was read, and referred to the Committee on the Judiciary.

The memorial is as follows:

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled: The memorial of the Legislative Council and House of Representatives of the Territory of Missouri, in the name and behalf of the people of said Territory, respectfully showeth:

That their Territory contains at present a population little short of one hundred thousand souls, which is daily increasing with a rapidity almost unexampled; that their territorial limits are too extensive to admit of a convenient, proper, and equal administration of Government; and that the present interest and accommodation, as well as the future growth and prosperity of their country, will be greatly promoted by the following division, which your memorialists propose, to the end that the people may be authorized by law to form a constitution and establish a State government within the following limits:

Beginning at a point in the middle of the main channel of the Mississippi River, at the thirty-sixth degree of North latitude, and running thence in a direct line to the mouth of the Big Black River, (a branch of White River;) thence up the main branch of White River, in the middle of the main channel thereof, to where the parallel of thirty-six degrees thirty minutes North latitude crosses the same; thence, with that parallel of latitude, due West, to a point from which a due North line will cross the Missouri River at the mouth of Wolf River; thence due North to a point due West of the mouth of Rock River; thence due East to the middle of the main channel of the River Mississippi, opposite the mouth of Rock River; and thence down the River Mississippi, in the middle of the main channel thereof, to the place of beginning.

These are limits to which, to a superficial observer, glancing over the chart of our country, would seem a little unreasonable and extravagant, but which a slight attention to its geography (or more properly to its topography) will be sufficient to satisfy your honorable body are not only proper, but necessary. The districts of country that are fertile and susceptible of settlement are small, and are detached and separated from each other at great distances, by immense plains and barren tracts, which must for ages remain waste and uninhabited. These distant frontier settlements, thus insulated, must ever be weak and powerless in themselves, and can only become important and respectable by being united; and one of the great objects your memorialists have in view is the formation of an effectual barrier for the future against Indian incursions, by pushing forward and fostering a strong settlement on the little River Platte to the West, and on the Des Moines to the North.

DAVID BARTON,
Speaker of the House of Representatives.
BENJAMIN EMMONS,
President of the Legislative Council.

ST. LOUIS, *November* 21, 1818.

The foregoing is a true copy of the original.
D. BARTON, *Speaker.*

MONDAY, January 3, 1820.

RICHARD M. JOHNSON, appointed a Senator by the Legislature of the State of Kentucky, to supply the vacancy occasioned by the resignation of John J. Crittenden, produced his credentials, was qualified, and took his seat in the Senate.

State of Maine.

The Senate resumed the consideration of the bill declaring the consent of Congress to the admission of the State of Maine into the Union.

Mr. BARBOUR observed that this bill involved considerations of great moment; that it embraced provisions on which there were conflicting opinions, though no objection whatever was entertained to the main object of the bill, of which indeed he was warmly in favor. For this and other reasons, which Mr. B. afterwards submitted at large, he wished the bill to go back to the committee, in hopes that they might so shape it as to obviate the difficulties alluded to, and unite the voice of the Senate in its favor. Mr. B. concluded his remarks by moving that the further consideration of the bill be postponed to Wednesday; when, if his present motion succeeded, he should offer the following motion:

"That the bill entitled a bill declaring the consent of Congress to the admission of the State of Maine into the Union, be committed to the Committee on the Judiciary, with instructions so to amend it as to authorize the people of Missouri to establish a State government, and to admit such State into the Union upon an equal footing with the original States in all respects whatever."

The motion to postpone was opposed at considerable length by Messrs. MELLEN, OTIS, and BURRILL, successively, on the ground of the impropriety of delaying the bill, and also as taken in connection with a motion of which Mr. BARBOUR had given notice. The inexpediency of coupling the two subjects together in one bill; and, incidentally, the question connected with the Missouri bill of certain restrictions, &c., entered into the debate.

The motion strictly before the Senate being simply to postpone the consideration of the bill to Wednesday, it was assented to generally by those gentlemen who had opposed the object of the postponement, and was agreed to without a division.

TUESDAY, January 4.

WILLIAM PINKNEY, appointed a Senator by the Legislature of the State of Maryland, in place of Alexander C. Hanson, deceased, produced his credentials, was qualified, and took his seat in the Senate.

WEDNESDAY, January 5.

Pennsylvania—Resolutions against Slavery in New States.

Mr. ROBERTS offered the following proceedings of the Legislature of Pennsylvania, which were received, and read:

Resolutions relative to preventing the introduction of slavery into new States.

The Senate and House of Representatives of the Commonwealth of Pennsylvania, whilst they cherish the right of the individual States to express their opinions upon all public measures proposed in the Congress of the Union, are aware that its usefulness must in a great degree depend upon the discretion with which it is exercised. They believe that the right ought not to be resorted to upon trivial subjects or unimportant occasions, but they are also persuaded that there are moments when the neglect to exercise it would be a dereliction of public duty.

Such an occasion as in their judgment demands the frank expression of the sentiments of Pennsylvania is now presented. A measure was ardently supported in the last Congress of the United States, and will probably be as earnestly urged during the existing session of that body, which has a palpable tendency to impair the political relations of the several States; which is calculated to mar the social happiness of the present and future generations; which, if adopted, would impede the march of humanity and freedom through the world, and would affix and perpetuate an odious stain upon the present race—a measure, in brief, which proposes to spread the crimes and cruelties of slavery from the banks of the Mississippi to the shores of the Pacific.

When measures of this character are seriously advocated in the republican Congress of America, in the nineteenth century, the several States are invoked by the duty which they owe to the Deity, by the veneration which they entertain for the memory of the founders of the Republic, and by a tender regard for posterity, to protest against its adoption, to refuse to covenant with crime, and to limit the range of an evil that already hangs in awful boding over so large a portion of the Union.

Nor can such a protest be entered by any State with greater propriety than by Pennsylvania. This Commonwealth has as sacredly respected the rights of other States as it has been careful of its own. It has been the invariable aim of the people of Pennsylvania to extend to the universe, by their example, the unadulterated blessings of civil and religious freedom. It is their pride, that they have been at all times the practical advocates of those improvements and charities amongst men which are so well calculated to enable them to answer the purposes of their Creator; and, above all, they may boast that they were foremost in removing the pollution of slavery from amongst them.

Under these convictions, and in full persuasion that upon this topic there is but one opinion in Pennsylvania—

Resolved, by the Senate and House of Representatives of the Commonwealth of Pennsylvania, That the Senators and Representatives of this State in the Congress of the United States be, and they are hereby, requested to vote against the admission of any territory as a State in the Union, unless "the further introduction of slavery or involuntary servitude, except for the punishment of crimes, whereof the party shall have been duly convicted, shall be prohibited; and all children born within the said territory, after the admission into the Union as a State, shall be free, but may be held to service until the age of twenty-five years."

Resolved, That the Governor be, and he is hereby, requested to cause a copy of the foregoing preamble and resolution to be transmitted to each of the Senators and Representatives of the State in the Congress of the United States.

JOSEPH LAWRENCE,
Speaker of the House of Representatives.
ISAAC WEAVER,
Speaker of the Senate.

APPROVED—The 22d day of December, 1819.
WILLIAM FINDLAY.

THURSDAY, January 13.

Maine and Missouri.

The Senate having taken up the bill from the House of Representatives, for the admission of the State of Maine into the Union, on an equal footing with the original States, together with the amendment reported thereto by the Judiciary Committee, which amendment embraces provisions for authorizing the people of the Territory of Missouri to form a convention, &c., preparatory to their admission into the Union—

Mr. ROBERTS, of Pennsylvania, rose and said he felt it to be his duty to try the merits of these two subjects by a preliminary motion to this effect:

"That the bill for the admission of the State of Maine into the Union, and the amendment thereto reported, be recommitted to the Judiciary Committee, with instructions so to modify its provisions as to admit the State of Maine into the Union" (divested of the amendment embracing Missouri.)

Mr. ROBERTS said that the question involved in the amendment reported by the Judiciary Committee would probably excite much feeling. For himself, however, he was determined to prepare to meet it with the temper and moderation which were due to it. But he wished, in entering upon it, there should be the most perfect regularity, and the most full opportunity for discussion. The question of the admission of Maine into the Union was one question; that of the admission of Missouri another; and that of uniting the two in one bill was a distinct question, for the purpose of obtaining an unembarrassed decision on which he had submitted the present motion. Mr. R. adverted to the progress, in the Senate, of the proposition for the admission of Maine into the Union. Very early in the session, he said, a communication had been received from a regular source, that a

convention of the people of Maine, duly authorized thereto by an act of the Legislature of Massachusetts, had met and formed a constitution of State government. A bill had been duly reported, by a committee, for the admission of the State of Maine into the Union, and made the order of the day for a particular day. On that day, and on successive following days, it was postponed, for various reasons, on account of the absence of members from different sections of the Union. At that time, Mr. R. said, he had no idea that there was an intention to connect the two subjects of Maine and Missouri, until a member from Virginia, in moving a further postponement of the bill, stated that he had some notion of endeavoring to connect the two questions. This proceeding struck him, on comparing it with the usual order of proceedings in this House, as a little curious, to say the least of it—though he did not mention it as a matter for censure, but as a mere statement of facts. On the 29th of December, said he, we find a memorial from the Legislature of Missouri is taken from the files of the House, and referred to the Judiciary Committee. Some days afterwards, a message is received from the House of Representatives, transmitting a bill for the admission of Maine into the Union, which is referred to the Judiciary Committee, and, the two subjects being thus before the same committee, they reported the bill for the admission of Missouri, by way of a rider to the bill which came from the other House for the admission of Maine. This, Mr. R. said, was an extraordinary mode of proceeding, which ought to be met at the threshold; and he knew not how it could be more directly met than by the motion which he had submitted. The motion to recommit, he said, was a regular motion, but was not to be made, he admitted, but in extraordinary cases. This was a case of that description. He appealed to gentlemen whether it was regular or even justifiable to connect in one bill two subjects totally distinct, as these in reality are? Maine, he said, was a part of the old territory of the United States; her constitution was already formed, with the consent of the State from which she was to be separated; there was no dispute about her limits, which were defined, nor about the justice of her claim to admission, which was admitted. There were many doubts about Missouri, with respect to her extent, boundaries, and population, without regard to other questions which might arise respecting her constitution, &c. The cases of Kentucky and Vermont had been cited as a precedent for this proceeding; but, Mr. R. said, they were admitted by separate bills, passed at different periods of the same session. Mr. R. said, for his part, he had no objection that the two bills for the admission of Maine and Missouri should pass on the same day; but they ought to pass separately and independently of each other. Standing, as they did, on different grounds, they ought to be decided on their own merits.

Mr. SMITH, of South Carolina, said, as chairman of the committee which reported the amendment, according to the ordinary usage when opposition arose, it became his duty to explain the reasons which operated with them in making that report, although the motion before the Senate did not present any distinct objection to it, but only sought to modify it. If the object of the resolution was to make the admission of Maine a part of the bill, the motion was nugatory, because Maine was already in the bill, as it came from the House of Representatives; and to recommit the bill for the purpose of introducing what was already there, could answer no sensible purpose. If the object was to exclude Missouri for the want of formality or simplicity in the bill, the resolution ought to be rejected. There could be no good reason why they should be separated. The subject matter was perfectly congenial, and it was a correct rule in legislation to incorporate in the same statute all subjects that were homogeneous, and this principle accorded with the uniform practice of the Senate. But, if it had for its object the admission of Maine, and the total exclusion of Missouri from the privilege of a place in the Union, upon an equal footing with the original States, it became more objectionable.

If any difference did exist between the two cases now before you, the preference was in favor of Missouri. The assent of Congress must first be had before Maine can be admitted: Congress was bound to admit Missouri, whenever she presented herself with such a population as you have been accustomed to recognize as sufficient in other cases, which Missouri now tenders, and claims her right of admission. This claim to the right of admission, on the part of Missouri, is founded on the third article of the treaty of cession under which the United States acquired the territory of Louisiana in full dominion. That article of the treaty is so explicit and definite it cannot be questioned. It says, "The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess." The terms here prescribed are imperative. Here is no condition annexed; but they *shall* be admitted into the Union. This treaty has become a part of the supreme law of the land. It is made so by the constitution itself, and is as obligatory as the constitution can be. The President and Senate of the United States are made competent to form any treaty they may deem proper, and such treaty is absolutely binding to the fullest extent of its stipulations. Upon this occasion the words used are as appropriate as any in the English language. To incorporate is defined, by a distinguished lexicographer, in these words: "To mingle dif-

ferent ingredients, so as they shall make one mass." In addition to this is the comprehensive and appropriate word Union. This makes Missouri as much a component part of the Union as Maine, and as much an object of its care and protection. Where, then, exists the incongruity which forbids their junction in the same bill? By this treaty an express stipulation is entered into, in words as definite and appropriate as any the English language affords, to secure their rights of liberty and property. But this is said to be no more than the formula of a treaty. It would afford but a poor consolation to the inhabitants of a country which, in the destiny of nations, may be transferred from one sovereign to another, to be told, that all the plain and sensible stipulations securing to them their most sacred rights and dearest privileges, are but the formula of a treaty. It is an obligation which the faith of the nation is pledged to fulfil. Are there any rights attached to Maine that ought to be more sacredly guarded than those of Missouri, guaranteed by this treaty? If there are not, why should Maine claim to approach this high station alone, disdaining and avoiding Missouri as her associate?

Mr. MELLEN, of Massachusetts, said, as he had presented the memorial of the convention, praying for the admission of Maine into the Union, and, as he was an inhabitant of that section of Massachusetts, it was natural to suppose that he felt an interest in the success of the bill under consideration. I do, sir, said he, feel an interest; and though on a former occasion I have expressed in the Senate my sentiments in relation to the subject of the separation of Maine from Massachusetts, and have elsewhere frankly opposed the measure then in contemplation, circumstances have since given a new aspect to the question; an immense majority of the people of Maine have declared their opinion in favor of dissolving their connection with Massachusetts, and becoming an independent State; Massachusetts has consented to their wishes; a constitution has been formed in a spirit of harmony, and it has been accepted by the people by a vote almost unanimous. In this state of things I cheerfully yield my own opinion, and am disposed to join the general wish, and aid in such measures as are still necessary to the completion of the great object in view. With this avowal I proceed, sir, to state, that I am opposed to the amendment reported by the committee. I am opposed to it for several reasons. It will be recollected that the bill on the table has passed the House of Representatives in the simplest form—merely declaring the assent of Congress to the admission of Maine into the Union; the bill, so passed, has been sent to the Senate for concurrence; in the usual course it was referred to the Committee on the Judiciary, and they have reported it, with an amendment, consisting of a long bill for authorizing Missouri to form a constitution, as a preliminary step towards her admission into the Union at a future day. I confess, Mr. President, I did not anticipate this course; I had no authority to expect it; for though I am young in legislation, I am informed by those who are experienced, that such an amendment is a perfect novelty, to say the least of it. I have always found, sir, that the most correct course for a man of business to pursue is to adopt the very simple rule of doing one thing at a time, and doing it fairly and faithfully; that the proper mode of deciding causes in a court of justice, or questions in a legislative body, is to examine them distinctly, and decide each cause and each question upon its own merits; and, in order to ascertain those merits, apply principles and proof without confusion or embarrassment. I am desirous, sir, that, on the present occasion, this plain, old-fashioned mode of proceeding may be adopted and pursued. It would be considered as a singular departure from the ordinary rules of managing the concerns of a court, to try two causes between different parties at the same moment and by the same jury; and for the judge to instruct this jury that they must, at all events, return their verdict in both causes for the plaintiffs, or both for the defendants, without any regard to the discriminating merits of the causes; and it would certainly appear more strange still, if, in one of the causes, there were no doubt or question about its justice; and yet that it must be sacrificed in company with the other, because the jury could not agree in a verdict as to this other. The case I have now stated shows the impropriety of this junction of the two bills. This is not consonant to the usage in similar cases. I refer to Kentucky and Vermont; they were both admitted into the Union at the same session, with an interval of only a few days, and yet separate acts of Congress were passed for the purpose.

Mr. LLOYD, of Maryland, expressed his hope that the motion which had been made by the gentleman from Pennsylvania would not prevail. He had not been sufficiently long a member of this body to know precisely the usual mode of proceeding in cases of this kind, but he should have thought the more direct course would have been to have moved to strike out the amendment, instead of moving a recommitment. This, however, was matter of form; he objected to the motion on principle. It had been said the two subjects were different in their nature. This Mr. L. did not admit. What, asked he, is the question presented by the bill and the proposed amendment? It is this: Shall Maine and Missouri be admitted into the Union on an equal footing with the original States? Could there, he asked, be a plainer question; could there be two subjects more intimately connected, or in principle more nearly allied, than the two embraced in this question? We may imagine, said he, as many distinctions between the two cases as we please; but if we confine ourselves to the power granted to us by the constitution, we have but one course to pursue, which is, to admit both the States, on the same terms, into the Union.

Mr. L. readily admitted that, as a general course, it was highly improper to tack together questions depending on different principles, and relying on different arguments for their support. He denied, however, that this was such a case. He affirmed that if the Senate had a right to impose restrictions upon Missouri, they had the same right in regard to Maine, but no power over the one which they had not over the other. If the novel doctrine, which had been recently announced, of restrictions and provisions on the admission of new States, was to prevail, how much must Massachusetts and Maine have relied on the liberality of Congress, in forming a constitution without previously obtaining the assent of Congress, and in supposing they were to be admitted into the Union on their own terms. How did they know, said Mr. L., but we might impose a restriction upon Maine, to compel her to admit slavery within her limits? If we have a right to impose a negative condition in regard to Missouri, we have a correspondent and equal right to impose an affirmative condition in regard to Maine. But, in this case, it seemed that every thing liberal was to be conceded in regard to Maine, and every thing illiberal, in his view of it, was to be demanded of Missouri.

Mr. BURRILL, of Rhode Island, took the floor. He commenced with some remarks on the question of order involved in the amendment. He apprehended the committee had fallen into an error in reporting it; at least, it was without precedent for a committee to report on any subject referred to them by way of amendment to a bill from the House of Representatives, embracing a totally different object. It would be agreed on all hands, he said, that an observance of their own rules was necessary to the dignity of this body, and to the order and despatch of business. He did not dwell long, however, on the point of order, but proceeded to consider the merits of the question, which was a simple proposition to separate the two subjects of Maine and Missouri.

It was conformable to the rules and practice of the Senate, he said, to divide a question, when asked by any member, where it was susceptible of division. Now, he asked, was not this question susceptible of the proposed division? It was not only susceptible of division, he said, but the cases embraced by it were essentially dissimilar. With regard to the State of Maine, the territory embraced by it had, from the adoption of the constitution, been known as the District of Maine: its limits were known and accurately defined. The question on the admission of Maine was a question respecting the division of one of the original States. And would any one say that the division of an old State was a question of the same nature as that of the erection of a State out of an acquired territory? There were cases, he said, in which Congress were under an obligation to erect new States in the territories of the United States; but they were not obliged to admit into the Union a State formed out of an old State. He agreed with gentlemen on the other side in some of their premises, though he dissented from their conclusions. He agreed that the question of consenting to the division of a new State was a question of *policy*—a question on which the Congress was to exercise a sound discretion. For example, if the State of which he was a Representative on this floor were to ask to be divided, though the people composing it should be unanimously agreed on the subject, he doubted whether Congress would assent to it. The question therefore embraced by the bill was about the division of a State, which Congress was to decide as it should deem most wisely in regard to the general interests of the Union; whilst the question involved in the amendment regarded the erection of a new State in a Territory, which Congress were under an obligation, arising not only from the colonial condition of the Territory, but by the force of a treaty with a foreign power, as had been contended, and as he admitted in a certain sense, to establish. There was no connection between questions so distinct in their nature, and they ought not to be united in the same bill.

Mr. MACON, of North Carolina, next followed in debate. With regard to the order of proceeding, he said, it had never been the practice to refer back a subject to a committee, but for the purpose of obtaining details, to make that which was doubtful plain. In the present case there was no occasion for such a reference, the object being to separate two subjects proposed to be united, which could be directly effected by a disagreement to the proposed amendment. There was no necessity, therefore, in his opinion, to recommit the bill on that ground.

This, said he, is a pretty important question, view it in what light you will. The appearance of the Senate to-day is different from any thing I have seen since I have been a member of it. It is the greatness of the question which has produced it. So interesting is it, that, on this incidental question, all the members have gone into the question, which is not, but is expected to be, before the Senate.

With regard to the question immediately before the Senate, Mr. M. said he had hardly expected that the gentleman from Pennsylvania would have forbidden the banns of this marriage. He thought the opposition to it would have come from some one more interested, more nearly allied to the parties. Allusion had been made to the case of Vermont and Kentucky. And why, he asked, were there given, in the same bill, to Vermont two representatives, and to Kentucky two? Their population was not known; but their representation was made equal in order to keep up the proportion which the National Convention had given to the two sections of the Union.

It had been said that the law of Massachusetts, sanctioning the independence of Maine,

would expire on the 3d day of March, and it was therefore proper to hasten the passage of the bill from the House of Representatives, without amendment. But, Mr. M. said, that Massachusetts would not, after she had consented to her daughter setting up for herself, play the stepmother, and say, because you have not done this to-day, you shall not do it to-morrow. Massachusetts would do hereafter, he had no doubt, what she had already done.

With respect to the alleged impropriety of connecting the two subjects in one bill, Mr. M. asked if there was any thing more common than for Congress to pass bills for particular objects, "and for other purposes?" It was the practice of every day; and those "other purposes" were frequently not purposes connected with the main subject of the bill. The Senate, the gentleman might recollect, had at times been so tenacious of their bills, as not to allow them to be amended even by a dot over an *i*, or a cross on a *t*. Yet the Senate had, before now, in more instances than one, tacked one bill to another of a different nature. Mr. M. quoted an instance, being an act to establish a board of commissioners for the city of Washington, *and for other purposes*, passed several years ago. After the bill came from the House of Representatives to the Senate, as the Journal would show, it was amended by the addition of provisions for authorizing the making a canal from the Potomac to the Eastern Branch; which provision was certainly not analogous to the main object of the bill. Mr. M. said he questioned whether a bill ever passed with a great many sections, but those who voted for it objected to some of them. He could himself recollect amendments to bills having been made, which were so obnoxious that gentlemen friendly to the object of the bills had been almost ready to give up the main point, rather than agree to the amendments.

Reference had been made to proceedings on this subject out of doors. Those proceedings, said Mr. M., have been all one side. Our people do not petition much; we plume ourselves on not pestering the General Government with our prayers. Nor do we set the woods on fire to drive the game out. When the question, which every one had alluded to, came properly before the House, Mr. M. said he would speak his sentiments upon it. Gentlemen were inquiring what, to a fraction, was the population of Missouri. For his part, if she was otherwise fitted for self-government, and had a population of but twenty thousand, he would say to her, come into the family, and become one of us. In no instance, he said, had Congress insisted, in the admission of new States, on a population of sixty thousand. The true reason of the objection to the prompt admission of Missouri, was the prineiple to which gentlemen had alluded, and which had made so much noise out of doors. He confessed, that on this question he had felt more anxiety than on any other question lately presented to his view. It may, said he, be a matter of philosophy and abstraction with the gentlemen of the East, but it is a different thing with us. They may philosophize and town-meeting about it as much as they please; but, with great submission, sir, they know nothing about the question.

FRIDAY, January 14.

Maine and Missouri.

The Senate resumed the consideration of the subject of the Maine bill, (as proposed to be amended by adding Missouri to it,) and the proposition by Mr. ROBERTS, to recommit the bill with instructions to the committee to separate the two, and report Maine in a distinct bill, as it came from the other House.

Mr. BARBOUR, of Virginia, said, the particular agency which he had heretofore had in this subject, made it proper that he should endeavor to show the impropriety of agreeing to the proposed resolution, and at the same time vindicate the course pursued by the committee in recommending the amendment providing for the admission of Missouri into the Union. To a distinct understanding of the subject, said he, it is necessary we should advert to the history of its progress. A select committee, to whom the subject was referred, brought in a bill whose object was to provide for the admission of Maine into the Union. While it was depending before the Senate, I submitted a motion to recommit the bill, with instructions to incorporate the very amendment which has now been proposed. Before this question was decided, a bill is sent up from the House of Representatives, precisely like that depending here. In conformity to an existing comity between the two Houses, the bill depending here, with the instructions I had submitted, was postponed, and the Senate proceeded to act on the one from the House of Representatives. At the proper time, it was committed to the Judiciary Committee, who, as I think, most wisely and justifiably, reported the bill with the much contested amendment in favor of Missouri—the memorial of that people having been previously referred to that committee, supplicating admission into the Union. It is objected, first, by the member from Pennsylvania, that the committee got possession of the subject rather curiously. In justification of this assertion, he states that the memorial of the people of Missouri is that which was presented the last session. Sure, this objection is of itself a curiosity. Is it not the invariable usage which obtains in both branches, when a petition has been presented, and its object not consummated, as is but too commonly the case, Congress either being unable or unwilling to do so, for the same identical petition to be presented to the ensuing Congress? Why present a new one, the facts and grounds of the application remaining the same? It is next objected by the gentleman from Rhode Island, that the committee have exceeded their powers in rec-

ommending this amendment. Pray, sir, what is the object of referring a bill to a committee—merely to dot the i's and cross the t's? I had supposed they had a more important duty to perform. Not only their right, but that it was their bounden duty to modify or amend any and every part in relation to the particular subject embraced by the bill, and to extend its provisions so as to embrace every corresponding subject. This is not only a rational rule, but one which is prescribed by every well-organized deliberative body. It in the first place diminishes that multiplicity of laws already swelled to an extent beyond the reading of the most industrious. Secondly, it prevents that irregularity and inconsistency which ensue from a different course. I appeal to the experience of the Senate, when I assert, that the success of a claim, for instance, depends sometimes on the zeal, perseverance, and ability of its patron. A claim thus supported, is carried in triumph through the House—while one no less just, for want of those efficient auxiliaries, is lost, and, in consequence, a chequered and unequal system of legislation obtains. If this be true on trifling occasions, how does the reason of the course pursued by the committee increase upon us, and the necessity of adhering to it upon subjects so important as those involved in the bill and amendment! But it is objected that the two subjects are dissimilar, and, therefore, should be separated. If this be true, why send it back to the committee? The question before the Senate is, shall they be joined as proposed by the committee? If you disapprove of the junction, reject it; but do not refer it to the committee: they have performed their duty; do you perform yours. But is it true, that there is any difference in the two subjects, so as to make it indispensable to separate them? As to any thing yet before the Senate, there is no essential difference; and, therefore, nothing to require their separation. Let us inquire, first, in what they agree; Maine, it is readily admitted, has just claims to an admission into the Union; and I shall be greatly misunderstood, if I am suspected of any hostility to such admission. Her claims rest on the extent of her territory, the number of her people, the great length of her maritime coast, her frontier situation, and the necessity of the residence of her government within her borders, by which, whenever the occasion occurs, the resources of the State may be called out immediately for her defence and protection. What are Missouri's claims? An equal extent of country, the number of her people, her frontier situation, a right guaranteed by the treaty by which we acquired the country, but, above all, the invaluable privilege of self-government, of which she is now deprived: a privilege dear to every American; the deprivation of which is the last injury which can be inflicted upon them. In what do they differ? It is said Maine is ready to come into the Government, having formed her constitution. In dependently of the consideration that this state of things would make it necessary only to adapt the different sections of the bill to the peculiar circumstances of the two cases, I must be permitted to state, that Maine has no claim on us for the precipitancy with which she has acted. The correct course would have been, to have obtained the consent of Congress before she had proceeded as far as she has. For I presume no one will pretend that there is any constitutional obligation on Congress to admit Maine at all into the Union—for the very obvious reason, that she now, as a part of Massachusetts, enjoys all the inestimable blessings of self-government. She surely, therefore, has not increased her claim on our indulgence by the premature step she has taken in forming her constitution; especially, too, as she did not know but, according to the new doctrine recently sprung up, Congress might think proper to impose restrictions—of which right she seems to have deprived us, by making and fashioning her constitution according to her own will and pleasure. Missouri, on the contrary, quietly submitted to the injustice of which she was the victim at the last session, and, for this submission, and her forbearance to assert her right to self-government, is held as an unworthy associate of the less respectful Maine.

Mr. OTIS, of Massachusetts, observed that, from the relation in which he stood to the State whose separation was to be effected by the bill, it might be expected that he should take some part in the debate, though he was not sure that it was in his power to add much to the illustration of the subject. It must be obvious to all that he could not reflect without regret upon the proposed division of his native State; but as this measure had been long since agreed to, with the full and deliberate consent of all parties concerned; and the people of Maine, in consequence of what he regarded as an invitation from Congress, had actually formed a constitution, and were now intent upon the consummation of their plan, he felt it to be his duty to contribute, with sincerity and frankness, to its accomplishment. The question now before the Senate was in substance a question of order; and it was with a view to disencumber it of other questions, of a more grand and interesting character, that he should vote in favor of the recommitment. He should, on the whole, have preferred taking the question upon the adoption of the amendment; but as upon that the entire merits of the Missouri pretensions would have been open to a debate, at the option of honorable gentlemen, which it was desirable to avoid, he was reconciled to the present course. He begged leave, however, to deny, that a vote in favor of this motion was equivalent to one for rejecting Missouri. He had once voted for the admission of Missouri, and expected, after a fair opportunity for examination into the details of a bill for that purpose, if it could be made to accord with his views, to vote for it again. It was not, he

agreed, very easy to compass, with the chains of a definition, the principles that should regulate the embracing of several objects in one bill; but there was in every man's bosom a perception of the fitness and congruity of objects which furnished an almost unerring standard. If the subject-matter of two provisions was entirely dissimilar, and unconnected; if the law could neither operate simultaneously, nor with equal effect, upon different subjects; if the conclusion to be drawn resulted from different premises, and depended on arguments which could not stand in any possible relation to each other, it might be assumed, for a general principle, that they ought not to be united. If a bill were sent from the House of Representatives, for raising revenue, it would be most improper and unusual to hook upon it a bankrupt act, or any other heterogeneous amendment. In England, it had been fashionable, formerly, to attempt to starve majesty into a compliant humor, by the appendage of riders to the supply bills; but he protested against the introduction of so objectionable a precedent in the Senate of the United States, in their intercourse with the House. In reply to the appeal of the honorable member from Virginia, who emphatically demanded whether the proposed junction of these two subjects would be resisted, but for the objection held in reserve to the admission of Missouri, he declared, with the most perfect sincerity, that he was not influenced by any such anticipation; but simply by a sense of the absolute discordance of the two provisions, and a regard to what he believed the dignity of the Senate demanded. No two things could have less resemblance.

Mr. LOGAN, of Kentucky, explained the views which had influenced him, as one of the select committee, to report the amendment. It was to come at a clear and distinct view of the merits of the questions embraced by the bill and amendment; to show, by placing them side by side, that the same rule must be applied to both; that no greater right existed to impose onerous conditions on the one than on the other of these Territories. If, said he, gentlemen will come across my boundary to affect my property, I wish to look over on the other side, and see how they stand. He was opposed to the recommitment, which he conceived wholly unnecessary, inasmuch as there was a substantive proposition now before the Senate, and it would be made no plainer by recommitment, which would in fact only be to consume time, unnecessarily, &c.

Mr. DANA, of Connecticut, concluded the debate by some remarks on a point which had not been adverted to by others, or, he said, he would not have spoken. He objected to the course proposed by the report of the select committee, and was in favor of recommitment. Nine States, he said, had already been admitted into the Union since the adoption of the constitution; and in no case had there been a connection of two in one bill, and this for a very good reason. An act for the admission of a State into the Union, said Mr. D., is entirely distinct from all other objects of legislation. It is a question whether we will admit a new associate in the empire. It is an individual case in its very nature. It is not a case for which we can provide by a general law. We can no more do that by a general law, than we can, by such a law, declare whether members are duly entitled to a seat on this floor, so as to supersede the necessity of examining the credentials in each particular case. The House of Representatives, Mr. D. said, had, in its legislation, with very great propriety, confined itself to the question whether a single State should be admitted. It was in vain to ransack the annals of legislation, ancient or modern, for any analogy to the case now before the Senate. It could only have existed in our own history; and in that there was no example of the union of two States in one act of admission; and Mr. D. said they ought not to be united. If the provision were not made in the constitution for the admission of new States, the general power of legislation would not have extended to it. Mr. D. cited the case of Kentucky, as precisely analogous to that of Maine; and showed that Massachusetts had followed, in her assent, &c., to the independence of Maine, the example set by Virginia. There had been a case, he said, in which, at the same session of Congress, one Territory had been admitted into the Union, and another authorized to form a constitution of State government; but the idea was never suggested of uniting them both in one act; the fact being that the reasons of the two acts were not the same. On the ground that acts of this description were entirely different from all ordinary acts of legislation, and must in their nature be limited to particular objects, it was as improper to combine these two questions as to combine the questions whether two persons were distinctly qualified to represent particular States in this body.

The question was then taken on the motion for recommitment, and decided, by yeas and nays, in the negative, by 25 votes to 18, as follows:

YEAS.—Messrs. Burrill, Dana, Dickerson, Horsey, Hunter, Lanman, Lowrie, Mellen, Morrill, Noble, Otis, Roberts, Ruggles, Sandford, Tichenor, Trimble, Van Dyke, and Wilson.

NAYS.—Messrs. Barbour, Brown, Eaton, Edwards, Elliott, Gaillard, Johnson of Kentucky, Johnson of Louisiana, King, Leake, Lloyd, Logan, Macon, Palmer, Parrott, Pinkney, Pleasants, Smith, Stokes, Taylor, Thomas, Walker of Alabama, Walker of Georgia, Williams of Mississippi, and Williams of Tennessee.

So the motion was negatived; the Senate thus refusing to separate the conjunction of the two States of Maine and Missouri.

The Senate adjourned to Monday next.

MONDAY, January 17.

Maine and Missouri—Restriction on Missouri.

The Senate then resumed the consideration of the admission of the State of Maine into the Union, as proposed to be amended by the annexation of Missouri. And the said proposed amendment being under consideration—

Mr. EDWARDS offered an amendment, having in view the principle of compromise, (by exclusion of slavery from the other territories of the United States;) but subsequently withdrew it, to give an opportunity for the following motion:

Mr. ROBERTS moved to add to the amendment (whereby Missouri is proposed to be admitted to form a constitution) the following proviso:

"Provided, that the further introduction into said State of persons to be held to slavery or involuntary servitude within the same, shall be absolutely and irrevocably prohibited."

The said amendment having been read—

Mr. ROBERTS said his objection to the order followed in the introduction of this bill was a serious one. Irregularity in legislative proceedings ought always to be avoided, but more especially on a question laying the foundations of a great community. I have thought, said he, and still think, (with deference to the decision had,) it has been an unfortunate course, and that this will be more apparent as we progress. Many remarks which fell from gentlemen in the discussion hitherto had, now invite reply. I have taken some care to arrange my thoughts for that purpose; but I have determined to withhold them at this time. The subject we are entering upon is one of great magnitude; claiming the coolest exercise of the faculties of the understanding, and the absence from the mind of all sorts of passions. I very much desire to avoid touching any and every subject, however pertinent, calculated to awaken impatience or dissatisfaction, or to use language which may be justly excepted to, as incompatible with this declaration.

It has sometimes been permitted, in God's providence, that a people should deliberately fix the great principles of their polity, under circumstances happily calculated to secure to themselves and their posterity the high blessings of his benevolent justice, so as to promise the fulfilment of the great end for which he created man—happiness. Such was the occasion when these States declared themselves free and independent; such was that that secured to the people of the Northwestern Territory the fundamental principles of civil and religious liberty; and such, let me observe, and not least in importance, is that on which we are deliberating. The people of these happy States were the first who proclaimed, before the Universe, "That all men are created equal; that they are endowed by the Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed." I pray you, sir, go back with me to the memorable era of which I am speaking. How stood the affairs of our ancestors when they adopted these truths as the maxims of their policy? The power of one of the mightiest nations of the earth was raised to crush them; that power was directed by the vindictive spirit of an incensed king, and parliament, and prejudiced people. A large mass of the people of America adhered to the mother country, ready to become her willing instruments in the worse scenes of the sanguinary conflict. The States were without government, without allies, without revenue, without arms, without military organization. In such a state of things, under such circumstances, they called the Supreme Judge of the world to witness that, as to them, his laws had been violated, and it had become their duty to resist oppression, and on the purity of their motives they invoked the protecting arm of his providence, and plighted their lives, their fortunes, and their sacred honor to vindicate the truth, that governments ought to secure to all men the inalienable rights of life, liberty, and the pursuit of happiness. What a prodigy! Truths that the speculative philosopher and retired philanthropist had hardly ventured to indulge, were now proclaimed, as the bright gem which was to be obtained cheaply, at the cost of every danger man could encounter. All that before was wonderful, sunk into littleness. The fainting hopes of humanity were revived; the world was irradiated by the blaze of truth; it was as the voice of Justice crying from the wilderness, whither the arm of tyranny had banished her—Despair not, yo oppressed nations! My temples are not everywhere desolate. There is still a people determined and able to vindicate my empire! The pledge they gave was redeemed. The arm of that providence, besought with all the fervency of the prayers of suffering virtue, was extended to good men, engaged in a just cause, who had sworn to establish the great principles of social liberty, or fall willing victims to the high attempt. The oppressor was humbled to acknowledge our country was, and of right ought to be, free and independent. Magnanimous allies had been obtained during the contest, and the recognition of the independence of our country by Britain, removed the last caveat to our admission into the community of nations. History informs us, though independence and peace had been achieved, still much remained to be done, by a wise policy and just laws, to secure the benefit of the great principles consecrated at the birth of our political community.

In 1787 an occasion offered more felicitous than that in which the faculties of sovereign power were assumed, to apply the just, social principles unanimously recognized by the great act of the Congress of 1776. The cession of the

Northwestern Territory by the several States claiming it, in full sovereignty to the United States, gave to the old Congress an opportunity of showing that peace and security had not weakened their faith in, or lessened their attachment to, the principles of the great corner stone of all our laws and constitutions—the Declaration of Independence. That instrument had the unanimous vote of the representatives of all the States; there were no geographical distinctions then; slaveholding and non-slaveholding States were not thought of. By one simultaneous act the Congress declared, and the States ratified the declaration, that governments were established to secure the enjoyment of individual rights, deriving their just authority from the consent of the governed.

At that time, let it be remembered, all the States contained slaves, and all the States declared, before the Supreme Judge of the world, that slavery was a violation of his truth, and admitted the binding obligation to remedy the wrong, when possible. Now, let us recur to the ordinance of '87, and the articles of compact it contains. I can do it justice in no other language than that declaring its purpose as laid down by the wise and good men who conceived and gave it effect. Thus it reads: "And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws, and constitutions are erected; to fix and establish those principles as the bases of all laws, constitutions, and governments, which *forever hereafter* shall be formed in said territory; to provide also for the establishment of States and permanent government therein, and for their admission to a share in the federal councils, on an equal footing with the original States, at as early periods as may be consistent with the general interest." Look at the scope and character of this declaration. Here, indeed, the great self-evident truths of which I have been speaking were applied, in full effect, to a virgin territory, unstained by the vices, untainted by the errors, and un-embarrassed by the mistaken notions of interest incident to human society. They were the laws of God, applied to a country before it had been peopled, by a wise foresight, which has been often displayed, under the guidance of a kind Providence, by the councils of our country. At the era of Independence the wholesome maxims of our policy recognized could not have their full effect, because in the infancy of our settlements the curse of slavery had been entailed on us by a blinded and unkind mother country. All that virtue could require was, that so inveterate a disease should be relieved, by applying diligently discreet correctives, and, above all, guarding against the extension of the evil. Thus do we find, four years after peace had been settled, on cool deliberation, the federal council seized the first opportunity of planting the fundamental principles of civil and religious liberty, like seed sown in a soil received, as it were, from the hand of the Creator, where they designed them to flourish in eternal vigor, and spread their fragrant branches through the world. This mighty stroke of a wise policy was had under the utmost freedom from all bias of selfishness and of constraint.

The great men who executed this trust looked not at the bearings of interest or to the gratification of an unworthy ambition. The ordinance declares a second time that slavery was viewed as a great evil, and one for the existence of which the people of that day were not accountable. That States which found themselves under the sad necessity of permitting its continuance, might, at the same time, without inconsistency, declare again and again, all men are created equal. This immortal ordinance, which with its elder sister the Declaration of Independence, will shed eternal and unextinguishable lustre over the annals of our country, was also adopted by a unanimous vote. It was aye, aye, from New Hampshire to Georgia. Here again there was no geographical distinction. In this act of imperishable virtue Virginia had the largest share. She ceded the most extensive and best-founded right to the territory. She left Congress free to impress on it the fundamental principles of civil and religious liberty. She gave her ready voice for the ordinance, and it is believed her representatives were among the most ardent advocates for the measure. I cannot look into the provisions of the articles of compact without burning with admiration of their principles, and the wisdom and virtue by which they have been consecrated. There are no marginal notes, or I would briefly recount them. The rights of the untutored Indian were guaranteed, and, in the goodness and wisdom of the legislator, it was left open to his hopes that his posterity might one day enjoy the blessings of the rights they secured. These blessings, Mr. President, have been already consecrated to three stars of your constellation that will soon take rank as of the first magnitude. Ohio will probably appear in that character at the next census. I have spoken of the ordinance of 1787 as applying to a territory. But of what mighty magnitude is it! It is fitted to contain a mightier population than the mightiest of the old continents. If its history was not insulated by more comprehensive events, it might now stand as the world's best hope. In this instrument it was not necessary to repeat that all men are created equal; that was already inscribed on the corner stone of all your laws and polity. It was here enough to say, no man should be a slave, and that every man should have an equal share of civil and religious liberty, by the decree of unchangeable justice. So far we discover no holding back: all is one consistent, just, enlightened, and unvarying policy. Every thing seems to have been done in the divine spirit, breathed by the representatives of an oppressed people, in the Declaration of Independence.

About this period it became necessary to form a more perfect union, and the constitution,

framed by an assembly in which WASHINGTON presided, seemed to have put the last hand to the work which placed on an immovable foundation the fundamental principles of civil and religious liberty, whereon our republics, their laws and constitutions, are erected. That instrument, framed with almost superhuman intelligence, clothed the Congress with all legislative powers granted in it, and with power to make all needful rules and regulations respecting the territory belonging to the United States; and all engagements were declared to be as valid against the United States under the constitution as under the Confederation. Among the first acts of the new Congress, is one providing that the ordinance of '87 should continue to have full effect. At the formation of the constitution this ordinance must have been well understood. It was enacted a little time anterior to the adjournment of the Convention, and was the harbinger of the great compact of Union. The councils from which they emanated were clothed with the power, and represented the majesty of the people, and it was impossible that the compromise resorted to by the Convention, in settling the rule of representation and taxation, should not have been considered as applicable only to the States then existing, and to those which might be admitted out of the territory of the good old thirteen. The same obligation of duty, consistency and regard to right, which induced the old Congress to prohibit slavery in the Northwestern Territory, could not have been inoperative in the Convention, as many States had long before abolished slavery; and nobody seems then to have thought it admissible, only under hard necessity. I think it will scarcely be contended, that, in '87, any of our councils could have contemplated the purchase of the territory which presents the great question on which we are now deliberating, or that such a question could have grown out of such an event.

In 1787, North Carolina ceded to the United States the territory which is now called the State of Tennessee. In the cession she stipulates, among other things, that the inhabitants of that territory should enjoy the benefits of the ordinance, save only that the Congress should pass no law tending to emancipate slaves. In this, I apprehend, it will hardly be contended she was binding them by restrictions, but that it will be allowed she intended to secure to them all the liberty their condition would permit. This recognition and ratification of the ordinance is proof of the estimation in which its principles were held; and Tennessee has been admitted under its enfranchising, or, as you will call them, restricting provisions, and has long appeared amongst us as an ornament to this body. On her admission are the words, "on an equal footing with the original States," first used. She being the first State admitted under the articles of compact in the ordinance of '87, the words were from thence transplanted, and, like texts from another book, not standing in their original relation to other words, their meaning has been misunderstood. Turn to the ordinance, and they are made plain. It there reads, the "new State shall be admitted when it shall have sixty thousand free inhabitants therein, by its delegates in the Congress of the United States, on an equal footing with the original States in all respects whatever, and shall be at liberty to form a permanent constitution and State government; provided the constitution and State government so to be formed shall be republican, and in conformity to the principles contained in these articles." These are conditions under which seven new States have been admitted into this Union, save only the article respecting slavery has been silent in the admission of Tennessee, Mississippi, and Alabama, and, by especial reservation, it has not been required of Louisiana to forbid slavery.

Can it be possible, after this long-settled construction, it shall be seriously contended that the Congress, in the admission of Missouri, can propose no check on the evil of slavery, and, by parity of reasoning, none on any portion of the country acquired under the title of Louisiana? We have seen Mississippi and Alabama brought into the Confederation, under compact to permit slavery. Louisiana has been so admitted in the discretion of Congress. On what grounds I know not, but I am bound to believe from what was understood to have been uncontrollable necessity. If so, it can avail Missouri nothing, as no such necessity exists in this case. The amendment has, I have to regret, but a limited operation on slavery. It is not proposed to free the slaves in Missouri, but to prevent their increase by emigration. This principle does not touch at all the provisions of the treaty. The country is to be eventually incorporated into the Union, it is admitted. We are all anxious the portion in question should. The dispute is, shall she be admitted without securing to her the franchises of civil and religious liberty, as far as her condition admits of its being done. Congress have power to prevent the migration of slaves, and though lexicographers may not be uniform in their interpretation of the word in general acceptation, it means change of place; so it has been construed by the Congress. An act now exists prohibiting the migration of slaves to Louisiana, in any manner, but as *bona fide* the property of persons actually going to settle within it. I know it will be alleged that it is repealed. But I have searched the statute book, and looked into the constitution of Louisiana, and can find no repeal of it. The section I allude to it as follows:

"It shall not be lawful for any person or persons to import, or bring into the said Territory, from any port or place without the limits of the United States, or cause or procure to be so imported, or brought, or knowingly to aid or assist in so importing or bringing any slave or slaves; and every person so offending, and being thereof convicted before any court within said Territory, having competent jurisdiction,

shall forfeit and pay, for each and every slave so imported, the sum of three hundred dollars; one moiety for the use of the United States, and the other moiety for the use of the person or persons who shall sue for the same, and every slave so brought shall thereupon become entitled to, and receive his or her freedom. It shall not be lawful for any person or persons to import or bring into said Territory, from any port or place within the limits of the United States, or to cause or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing any slave or slaves which shall have been imported since the first day of May, one thousand seven hundred and ninety eight, into any port or place within the limits of the United States, or which may be hereafter so imported from any port or place from without the United States; and every person so offending, and being thereof convicted before any court within said Territory, having competent jurisdiction, shall forfeit and pay for each and every slave so imported, or brought, the sum of three hundred dollars; one moiety for the use of the United States, and the other moiety for the use of the person or persons who shall sue for the same. And no slave or slaves shall be introduced into said Territory, directly or indirectly, except by a citizen of the United States, removing into said Territory for actual settlement, and being at the time of such removal bona fide owner of such slave or slaves; and every slave brought into the said Territory, contrary to the provisions of this act, shall thereupon be entitled to, and receive his or her freedom."

If this be the law, where is your wonder-working writ of *habeas corpus?* Are your Judiciary asleep, and your law a dead letter? If I be mistaken, I hope to be corrected; but it is enough for my purpose to show such a law has existed, and that the power of Congress to regulate the migration of slaves is not a new doctrine, nor now first proposed to be exercised. It proves incontestably the motion I have now offered has not hitherto been deemed as conflicting with the provisions of the treaty of cession. I am willing to consider Missouri as an inchoate State; no one will more gladly see her admitted into the Union; but I wish to see the page of her constitution irradiated with the fundamental principles of civil and religious liberty —to see her become a party to that covenant round which the patriots of '76 pledged their lives, their fortunes, and their sacred honor. The committee have attached the admission of Missouri to the bill for admitting Maine, under the pretext of congeniality. How insufficient the pretence! What ludicrous incongruity do the two propositions present! You are not acting on a section of two or three lines; as to Maine, it is her constitution you are ratifying. What do you find on the front of it? "Article 1, section 1: All men are born free and equal, and are free to worship God in their own way." Here is a substantial pledge to the good old faith. To her we may say, Come, sister, take your place in our constellation: the lustre of your countenance will brighten the American galaxy. But do not urge us to admit Missouri, under a pretence of congeniality—with the visage of a savage, deformed with the hideous cicatrices of barbaric pride—with her features marred as if the finger of Lucifer had been drawn across them.

Mr. ELLIOTT, of Georgia, said, with a knowledge of the talents which would be called forth on this occasion, in behalf of the rights of Missouri, it might seem unnecessary for one so unskilled in parliamentary debate, to obtrude his humble efforts on the attention of the Senate. But, said he, the magnitude of the consequences which may grow out of the decision about to be made, and the weight of responsibility resting upon every member charged with the consideration of the subject, urge me to rise, as I honestly conceive, in support of the constitution of my country, the faith of its Government, and the future peace and harmony of the Union.

As it is essential to a correct and liberal discussion, that the point at issue be clearly understood and dispassionately examined, all irrelevant matter should be cautiously rejected, and the mind brought to the investigation with its powers unembarrassed. How much to be regretted, then, is the public excitement which has been produced in anticipation of this debate! It is, I fear, not well calculated to insure a decision of this question upon its merits. The voice of the people should be heard, and always heard with deep attention and due respect. But, when feelings are thereby excited which do not belong to the subject under consideration, you are bound, by the strongest obligations of duty, to exclude them from these walls. Here the passions should be suffered to sleep, while to the unbiased judgment and the enlightened conscience are committed the decisions which may be recorded in your journals.

What, then, sir, is the question we are called upon to decide? Does it involve the liberty or slavery of the black population of the United States? On this subject the constitution has wisely interdicted the interference of the General Government. Does it seek a suspension of the law prohibiting the unhallowed trade to Africa, until the people of Missouri shall have accommodated themselves with slaves from that unfortunate country? No such sacrifice of feeling or policy is asked at your hands; on the contrary, the prayer of the people of Missouri, if granted, would not affect the liberty of a single freeman. Neither of these subjects being before the Senate, the arguments and feelings which grow out of them are alike foreign to the present discussion. But the people of Missouri do ask of you to fulfil your solemn engagements in their behalf, and to admit them into the Union, "according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States." The question then is, will you thus admit them?

Indulge me, sir, with your attention for a few moments, while I briefly consider their claims to such admission: 1st, under the constitution; 2dly, from the obligations voluntarily

assumed by the United States, in the treaty of cession, of the 30th April, 1803; and, lastly, from the suggestions of sound policy. In the 3d section of the 4th article of the constitution, it is declared—"New States may be admitted by the Congress into this Union;" and in the subsequent section of the same article, "The United States shall guarantee to every State in this Union a republican form of government." By the first section Congress is obviously clothed with discretionary power to admit, or not to admit, new States into this Union. But, whenever this power is exercised in the admission of a new State into this Union, the United States become bound, by the second section, to aid in the support of a republican form of government within her limits. Hence, the power claimed by Congress to exact a constitution on republican principles, as a condition to the admission of a new State into this Union. The condition is the necessary result of the obligation previously imposed upon the United States to guarantee a republican form of government to each State; and it is to be considered as an evidence of the patronage of the constitution, rather than as any authority to impose restrictions on the States.

The second section of the fourth article declares—"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." A new State, then, when once admitted into this Union, becomes possessed, by the very act of admission, of all privileges and immunities of the old States. But the old States claim and exercise the privilege to alter and amend their constitutions at pleasure. This is accorded to them as an inalienable, indefeasible right, essential to self-government—and in the use of this right they are unrestrained, provided they preserve the form of the government, and do not violate the Federal Constitution. But the admission of involuntary servitude into a State does not affect the form of the government, nor violate the Federal Constitution; for one-half of the States in the Union allow of it, and the Federal Constitution expressly recognizes and sanctions it. Under the constitution, then, any State in this Union may admit involuntary servitude within its limits, in the exercise of its unquestionable right of self-government; and Congress cannot be supposed to have power to impose a restriction, which the State has authority to abrogate at pleasure.

But it is contended by the honorable gentleman from Pennsylvania, (Mr. ROBERTS,) that, since the year 1808, Congress has acquired authority, under the ninth section of the first article, to impose the contemplated restriction. This section reads: "The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person." The terms migration and importation are not synonymous. Migration implies volition, choice, self-direction—but these belong not to a slave. He may be carried or imported, or he may abscond, but he can never *migrate*. The Irish, the Scotch, and the Dutch, *migrate* to this country, and it was probably to prevent Congress, until after the year 1808, from interdicting this practice, under the authority given to that body "to establish a uniform rule of naturalization," that the word migration was introduced in this section. But *importation* applies to slaves. They were imported; and the last clause of this section is conclusive as to the correctness of this exposition—"but a tax or duty may be imposed on such *importation*, not exceeding ten dollars for each person." The subjects of this tax or duty were persons *imported*, while those who *migrated* were suffered to enter our ports without the imposition of any duty. This section is restrictive, and restrains the power of Congress to prohibit the importation of slaves or the migration of foreigners prior to the year 1808. Since that period, Congress has very wisely acted upon the subject of the slave trade, and, under the authority imparted by the constitution, "to regulate commerce with foreign nations," such laws have been passed as promise at no distant period its entire suppression. But Congress has never attempted to prevent the transfer or removal of slaves from one State to another at the will of their owners. The section restrains no such power, for no such is given in the constitution. The truth is, it is a right claimed and exercised by the States, and they will never surrender it. Congress has no authority for claiming it.

But the latter part of the third section of the fourth article, it is supposed, gives to Congress competent authority on this subject. It reads—"The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Under the authority here given, Congress may lay out and dispose of the lands of the United States; and when inhabited, make such rules and regulations as may be needful for the civil government of the territory. But the question before the Senate is not what rules and regulations Congress may make for the government of a territory. It is, I conceive, sir, entirely a distinct subject of inquiry, and, therefore, cannot depend for its decision upon any authority drawn from this clause. Whenever the question respecting the powers of Congress to impose restrictions on the Territories shall come up, it will be time enough to argue it; at present it ought not to be permitted to embarrass the point at issue before the Senate. To me, then, the constitution does not seem to countenance the inhibition sought to be imposed by the amendment.

But, sir, the treaty of cession of the 30th of April, 1803, is still more explicit on this subject. The third article provides that, "the inhabitants of the ceded territory shall be incorporated into the Union of the United States,

and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess." The only difficulty which presents itself here is, to adopt any train of reasoning, by which the right of Missouri to an unconditional admission into the Union, can be made more obvious than it is rendered by a bare recital of this section. It seems to me not very unlike an attempt to prove a self-evident proposition. Under the constitution, it is manifest Congress may refuse admission to a new State. But here the General Government stands pledged not only to admit Missouri into the Union, but to do so as soon as possible; that is, so soon as she shall be in possession of the legal requisites; and when admitted, to receive her "according to the principles of the Federal Constitution," by which is intended, "under a republican form of Government," guaranteed to her by the United States in conformity with the provisions of the fourth section of the fourth article of the constitution. And, sir, as it regards the plenitude of the rights which are to be acquired by this admission, it is declared to be "to the enjoyment of all the rights, advantages, and immunities, of citizens of the United States." Now, all the rights, advantages, and immunities of the citizens of the United States, is a phrase of the most extensive latitude, and must necessarily include the momentous and inalienable right of self-government, which appertains to all the States. But many of the States, in the exercise of the right of self-government, have established, and do permit, involuntary servitude within their limits. Missouri, then, when admitted, may so amend her constitution, under the enjoyment of the same right, as to admit slavery within her jurisdiction. And yet, it is contended that Congress can impose a restriction which the State, at the moment of her admission into the Union, will have a right to annul! Again, in the last clause of this section it is expressly agreed, that, "in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess." But a part of this property, for the protection of which the United States stand thus solemnly pledged, was, unquestionably, slaves. The Congress, thus, not only has no power to impose the contemplated restriction on the State of Missouri, when admitted into the Union; but having guaranteed to the owners of slaves, in the ceded territory, the free enjoyment of their property, that body could not, under any Territorial regulation, have imposed such a restriction. That the General Government thus understood the obligations of the treaty may be fairly inferred from its practice under it. Since the acquisition of Louisiana from France, no attempt has been made by Congress to legislate on this subject; and the inhabitants have been left to the uncontrolled management and direction of this species of property. In the year 1812, when a part of this Territory, under the name of Louisiana, was admitted into the Union, the admission was unconditional as to this subject, and that part of the territory was received on the footing of the original States.

Mr. MORRILL, of New Hampshire, said it was with reluctance that he rose to address the President of the Senate on this subject. I approach it, said he, fully impressed with the peculiar sensibility which is excited in this House when it is discussed. I am not insensible of the force of argument, the power of eloquence, and the weight of numbers, those must encounter who take the affirmative of this question. But, sir, it is a duty which I cannot evade without doing violence to my own conscience and disappointing the expectation of that respectable portion of community whom I have the honor, in part, to represent. It is a duty I owe to myself, my constituents, and my country. The decision of this question, sir, is not to affect a small section of the country only, but a territory more extensive than all the rest of the United States will have occasion to look back upon the measures of this Congress with joy or sorrow, delight or regret, perhaps, to the last period of time. Yes, sir, unborn millions will feel the effects of your laws, and rise up and call you blessed, or justly execrate the policy that permits one portion of the citizens to trample on the rights of the other, and transform those into despots, and these into enemies of their country.

Mr. President, when I cast my eye over this widely-extended empire, and behold it still extending, I inquire, with deep solicitude and inexpressible anxiety, what will be the situation of my beloved country a century or half a century to come? Will this growing Republic rise like the cedar of Lebanon, and flourish like the palm tree? Will its extensive branches and fragrant leaves cheer and heal the innumerable inhabitants of this immense domain? Will its civil and religious liberties be preserved? Will its intellectual and moral improvements progress and keep pace with its rapid population and increasing wealth? Sir, history furnishes us with no fact on which we can found this hope. Republics have risen and fallen, empires have been shaken, and kingdoms demolished. But, sir, for my country I would ardently desire a better fate, that she may convey to posterity her inestimable blessings, and thereby outlive the convulsions of nations.

Mr. President, this may be the case; but to insure it, our Government must be wisely administered, our liberties and morals preserved from contamination, and the principles of the original compact—"the palladium of our rights"—kept sacred and entire. This will cement the bonds of affection, sustain the Union, and give that energy to the Government that the com-

bined power and influence of the world will be unable to impair. But, sir, violate these, and this political fabric is racked to its centre. As an honorable gentleman intimated, it may occasion a tremor in the West, agitation in the East, and convulsion in the centre, and chaos through the whole.

Watch them with caution and vigilance, and this growing Republic rises as the cedar and soars as the eagle.

Sir, we are as liberal and as accommodating as any people on earth, and we are as tenacious of our rights. We know how we obtained them, and we know how to preserve them.

Mr. President, our forefathers quit the land of their nativity, the air which gave them birth, the associates of their youth, that they might enjoy civil and religious liberty. These were more precious than the possession of wealth, and the society of friends in a land of intolerance. They ploughed the mighty deep, they endured fatigue and danger, and implanted themselves on the inhospitable shores of a savage land, and there they erected the standard of liberty. They were Republicans in heart, pious in their profession, and virtuous in their practice. But they were not beyond the reach of oppression; the strong arm of power was extended across the Atlantic. They felt their weakness and dependence; they saw the hand which had been extended for their preservation and safety; they implored a divine benediction. Sir, the cause of this country was the cause of liberty, of truth, and of righteousness. A kind Providence interposed, and we were strangely rescued from the iron grasp of an unrelenting foe.

Omnipotent was the power, and marvellous was the deliverance!

Mr. President, independence was the high destiny of America; it was the decree of the Holy One; its banner was unfurled; its enjoyments anticipated; liberty and equality had "free course;" and a constitution, the admiration of the world, the dread of tyrants and the boast of freemen, grew out of the mighty conflict. This, sir, is the instrument which I have sworn to support, the polar star to direct my legislative course. Let no unhallowed touch profane the sacred ark of your liberties; preserve it inviolate, and its light, like the fiery pillar of captive Israel, will conduct you safely through all the toils and perils of your political journey, cheer the desert of your Western country, and cause the hearts of millions to rejoice. Sir, this is the standard around which we rally. Guard it with watchfulness, and you are safe; violate, or pervert it, and a train of evils, too dreadful to imagine, will be the probable result. Sir, do you demand proof of our patriotism and attachment to our constitution and country? We point you to Bunker Hill, Bennington, Trenton, Princeton, and Monmouth. We have met the power that spurned us; we took our lives in our hands, and faced the foe that bid us defiance. This was the day that tried men's souls. We have lavished our strength, our treasure, and our blood, in the first and second war, to sustain triumphant the ark of American liberty. In the name, then, of our constitution and your plighted faith, with confidence bordering on certainty, we approach an enlightened, liberal, and magnanimous Legislature, and only ask the protection and preservation of our guaranteed privileges. We do not mean, sir, in the attitude of humble suppliants, to implore a favor for which we have no just claim; but to remind you of your solemn compact—our mutual agreement. Sir, are pledges of our sincerity and integrity required? We present you the best securities of which a Republic can boast—faith never violated, hearts never corrupted, valor never surpassed, and affections cemented to the Government by ties of reciprocal advantage.

Mr. President, I have arrived at a point which I lament I am compelled to disclose. It is my deliberate opinion, that the uncontrolled extension of involuntary servitude will tend to impair all those virtuous qualities that I have named, which I deem the stamina, nerve, muscle, and hope of the nation. Alienation of affection and discord are the ruin of a country. "United we stand—divided we fall."

Sir, the magnitude of this subject, the importance which I conceive is attached to it, and the vital principle which will be affected in its final decision, are the only apology which I offer, for viewing it in the several points of light in which it presents itself to my understanding. In the first place, to clear the most formidable obstacle out of the way, I shall endeavor to demonstrate, that Congress have a right and power to prohibit slavery in every territory within their dominion, and in every State, formed of territory acquired without the limits of the original States.

This right and power are derived from the constitution, article 1, section 9: "The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808."

Here is a grant of power suspended for a certain period. It amounts to this: Congress may, after the year 1808, pass laws to prohibit the migration and importation of slaves. I understand the sense and meaning of this clause to be, that the power of the Congress, although competent to prohibit such migration and importation, was not to be exercised with respect to the then existing States, (and them only,) until the year 1808; but that the Congress were at liberty to make such prohibition as to any new State which might, in the mean time, be established. And further, that, from and after that period, they were authorized to make such prohibition as to all the States, whether new or old.

It will, I presume, be admitted, that slaves were the persons intended. The word slaves was avoided, probably on account of the existing toleration of slavery, and its discordancy

with the principles of the Revolution; and from a consciousness of its being repugnant to the following positions in the Declaration of Independence: "We hold these truths to be self-evident; that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness."

That this exposition is correct, I infer from the common acceptation of words, and the fact that Congress did, in March 1807, pass a law to take effect on the first day of January, 1808, prohibiting the further importation of slaves. No objection has been made to the constitutionality, expediency, or policy of this law. The whole nation viewed it as one step towards accomplishing the object the framers of the constitution evidently had in view. It may be of use to us to inquire, what was the understanding, and what was their design, in introducing this paragraph into that instrument? If you examine the Journals of the Federal Convention, sir, you will find it was not hastily or incautiously adopted, without deliberation, but after critical analysis and profound investigation.

Mr. President, it is a sound principle in expounding a law, to give to every word a meaning and an operation, and to be governed by the evident design of the legislators; so, in explaining the constitution, we are surely on safe ground, to pursue the object its authors evidently had in view, by giving to every word some meaning and operation. Does it not appear, from the words of that instrument, it was their intention to arrest the progress and prevent the further extension of involuntary servitude? Let common sense put a purport upon our Declaration of Independence, the letter of our constitution, and the spirit of our Government, and this must be the result.

It is well understood, that this question tried the feelings and excited the interest of that body perhaps more than any question they discussed. But to obtain a constitution they came to a compromise; and in this compromise there were mutual sacrifices. The large States agreed that each should have two members in the Senate, and the non-slaveholding States consented that the black population should come into the calculation in the apportionment of members in the House of Representatives, and the payment of direct taxes. It was the opinion of some, that involuntary servitude ought to be totally excluded; and of others, that it could not be, but might be meliorated and restrained. This produced the compromise, "the States now existing," which have admitted slavery, may continue to do so, on this condition: "Congress may, after the year 1808," pass laws to prevent the "migration" and further "importation" of slaves. To this proposition they agreed. This confirmed the compact. It is now binding on the whole. And this Congress are to be controlled by its principles. We wish neither to disturb the compact, nor violate our plighted faith. We lament the degraded situation of the slaves, and the misfortune of those who hold them; but we mean to attach no blame to them; it is an evil produced by a cause which was never within the reach of the present generation.

What is this tract of country? Is it a State or a Territory? If a State, then she may legislate for herself; if a Territory, then Congress have power to regulate. It is not a State till admitted into the Union by an act of Congress. This is clear, because should Congress pass a law to admit Missouri into the Union on conditions, and those be rejected, she remains still a Territory. Then every legislative act, previous to that of admission, is a "regulation respecting a Territory." And, under this provision of the constitution, in connection with the immutable principles of rational government, conditions have uniformly been incorporated in the acts admitting new States into the Union, as well as those which related to territorial government.

If Congress have a constitutional right to "make all needful rules and regulations respecting the territories," then it follows, *ex vi termini*, that they have equal right to exercise their discretion in deciding what "rules and regulations are needful." The power to make rules, and not a right to exercise discretion in adjusting them, would be a complete nullity. Previous to the year 1808, Congress did suppose, without the aid of this clause in the constitution, they possessed sovereign power and control over their territories. Under this very just impression, a law was passed in April, 1798, prohibiting the importation of slaves into the Mississippi Territory—Vol. 1, page 40, sec. 7:

"*And be it further enacted*, That from and after the establishment of the aforesaid government, it shall not be lawful for any person or persons to import or bring into the said Mississippi Territory, from any port or place within the limits of the United States, or to cause or procure to be so imported or brought, or aid in bringing, any slave; and being convicted, &c., shall forfeit and pay three hundred dollars, &c., and the slave be entitled to freedom."

This distinctly shows, that Congress supposed their power over the Territories more extensive than that over the States; because over them they could not pass a prohibitory statute till 1808. The same fact appears from the act of Congress of March, 1804, "erecting Louisiana into two Territories." Sec. 10—"It shall not be lawful for any person or persons to import or bring into the said Territory, from any port or place without the limits of the United States, &c., any slave or slaves; and every person so offending, &c., shall forfeit three hundred dollars, and the slave shall receive his or her freedom." "It shall not be lawful for any person or persons to import or bring into the said Territory, from any port or place within the limits of the United States, any slave or slaves which shall have been imported since the first day of May, 1798, or which may hereafter be imported; such person shall forfeit, &c., three

hundred dollars; and no slave or slaves shall, directly or indirectly, be introduced into said Territory, except by a citizen of the United States, removing into said Territory for actual settlement, and being at the time of such removal bona fide owner of such slave or slaves; and every slave brought into said Territory, contrary to the provisions of this act, shall receive his or her freedom."

From these facts it very obviously appears that Congress had, and did exercise, the power of inhibiting the importation, and even the migration of slaves, into its territories, directly or indirectly, otherwise than by a citizen of the United States removing thither for actual settlement, and being at the time bona fide owner of the slave. And this previous to the time that the ninth section in the first article of the constitution took effect; of course the power must be derived from some other clause in the constitution—perhaps that which authorizes Congress to regulate commerce, or from the immutable principle that all legitimate Governments have an inherent right to exercise sovereign control over its territories.

TUESDAY, January 18.

Restriction of Slavery in the Territory North and West of Missouri.

Agreeably to notice given, Mr. THOMAS asked and obtained leave to bring in the following bill, which was read and passed to the second reading:

A Bill to prohibit the introduction of slavery into the territories of the United States North and West of the contemplated State of Missouri.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the sixth article of the ordinance of Congress, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the territory of the United States Northwest of the river Ohio, shall, to all intents and purposes, be deemed and held applicable to, and shall have full force and effect in and over all the territory belonging to the United States, which lies West and North of a line beginning at a point on the parallel of North latitude thirty degrees and thirty minutes, where the said parallel crosses the Western boundary line of the United States: thence, running East, along that parallel of latitude, to a point where the said parallel is intersected by a meridian line passing through the middle of the mouth of the Kansas River, where the same empties into the Missouri River; thence, from the point aforesaid, North, along the said meridian line, to the intersection of the parallel of latitude which passes through the rapids of the River Des Moines, making the said line to correspond with the Indian boundary line; thence, East, from the point of intersection last aforesaid, along the said parallel of latitude, to the middle of the channel of the main fork of the said river Des Moines; thence, down and along the middle of the main channel of the said river Des Moines, to the mouth of the same, where it empties into the Mississippi River; thence, due East, to the middle of the main channel of the Mississippi River; thence, up and following the course of the Mississippi River, in the middle of the main channel thereof, to its source; and thence, due North, to the Northern boundary of the United States.

WEDNESDAY, January 19.

Maine and Missouri.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the admission of the State of Maine into the Union," together with the amendments reported thereto by the Committee on the Judiciary, and the amendment proposed by Mr. ROBERTS.

Mr. WALKER, of Georgia, said, the subject under consideration had been already so much discussed, that he had not the vanity to believe that he could offer any thing new to the consideration of the Senate. But representing, as he did, a State in which slavery is tolerated, it might possibly be construed a dereliction of duty, and an abandonment of the sacred interests of those he represented, were he to remain silent on the present occasion. Nothing, however, said he, but an imperious, an irresistible sense of duty could have induced me to depart from the resolution I had at first taken, not to trespass upon the time of the Senate by any observations of mine upon the bill now in progression. And really, sir, it is with a degree of unfeigned reluctance I have risen to oppose my opinions to those of gentlemen of so much more experience than myself, and for whose opinions I cannot but entertain the most profound respect.

We have already heard, sir, as well from the honorable gentleman from Pennsylvania, who first addressed you, as from the honorable gentleman from New Hampshire, who closed his remarks last evening, that the subject under consideration is an important one. In this sentiment I perfectly accord.

Perhaps, sir, no subject which has agitated the councils of the United States of America, from the formation of our Government down to the present period, has been pregnant with more important consequences than the one now under discussion. It is a subject, sir, which has excited not only the deep interest of those who are to decide upon it, but one which is agitating this continent from one extreme to the other. And whether we turn our eyes to the East or to the West, to the North or to the South, we behold anxiety depicted in every countenance, as if, upon the decision of this question, depended the peace and harmony of this Union.

Sir, the resolutions and instructions of different State Legislatures—the petitions of very many assemblages of citizens in various parts of the Union, with which your table is crowded—proclaim, in language not to be misunderstood, the deep-toned feeling to which the discussion of this question has given rise.

Mr. President, I have heard, with much regret, the sentiments which have been expressed in this debate. They evince a degree of sec-

tional feeling which I had not expected to find within these walls. I had indulged the hope, sir, that, with the close of the late war, all party animosity had subsided, and that our political bark, having ridden out the tempest of faction, had been safely anchored in the haven of peace. But a state of tranquillity, I apprehend, is incompatible with the nature of man. Scarcely had the storm subsided—scarcely had we shaken hands as brothers—when a new source of discontent has been discovered; and another, and much more important distinction of party than any which has preceded it, is about to be established.

The feelings of humanity and benevolence have taken such complete possession of certain sections of our country, that every other consideration is made to bend to the irresistible inclination to ameliorate the condition of slaves. A spirit of opposition—a line of demarcation—is sought to be established between the slaveholding and non-slaveholding States. And "slavery or not," seems destined to be the watch-word of party.

I, for one, Mr. President, deprecate this state of things. I am not among those who believe that party dissensions are essential to the health of the body politic. I delight, sir, to inhale the breeze which brings with it harmony and peace; but when other sentiments prevail, it is not my nature to yield to their influence with calm indifference. Contest is preferable to submission. I feel it my duty, therefore, to meet this question at the threshold; I fear there is too much reason to consider it the inception of a policy whose tendency may be to dismember this Union. And the alarming doctrines we yesterday heard, have certainly not tended to allay my apprehensions.

It will not be expected, I trust, that I should follow the honorable gentlemen who advocate the amendment, over all the ground they have occupied in debate; for this I have neither inclination nor ability, and were they both in my possession, still, the effort might, perhaps, by some, be thought unnecessary.

With the historical sketches which have been given us, of the early settlements of this country, and of the dangers and difficulties which were encountered by our forefathers in this perilous enterprise, I have been amused and instructed—I had almost said, I have been charmed by their novelty; but I must be pardoned for saying, I cannot perceive their relevancy to the subject under discussion.

The honorable gentleman from New Hampshire, whose arguments I cannot hope to reach, much less to answer, has employed a considerable portion of a very long and a very able speech, in inventing anathemas against slavery, and has been pleased to draw a parallel between the inhabitants of the different sections of this country, (but with what degree of accuracy others must judge,) in which he has not failed to give a very decided preference to those who inhabit States in which slavery is not tolerated; and in the plenitude of his charity and benevolence, has ascribed this vast and essential difference to the influence of slavery. To the same influence is ascribed a destitution of talents, of courage, of morality, and of religion; and, from the observations of the honorable gentleman, one would be led to believe that all the cardinal virtues wither at the approach of this accursed monster slavery. In what a deplorable condition would be the inhabitants of the slaveholding States if the honorable gentleman's speculations were history! Fortunately, however, they have their existence only in a fervid imagination.

But, dreading lest he should not be able to carry conviction to our understandings, which he must of course have considered extremely blunt and impenetrable, the honorable gentleman endeavors to make an attack upon our fears, in which he considers us perhaps much more assailable; and with all the Christian meekness and charity imaginable, we are cautioned to beware how we encourage slavery, for that the vengeance of an angry God will not sleep for ever.

The honorable gentleman's zeal seems to have transported him beyond the bounds of just calculation. Our apprehensions are not so easily excited. For, whilst we bow with great humility and reverence before the majesty of Heaven, and, on our bended knees, would deprecate the wrath of God, we are not prepared to consider the honorable gentleman as one of his vicegerents.

Mr. President, it is far from my intention to recriminate; I came not here to offend or be offended. If it will be a gratification to the honorable gentleman's feelings, I am willing to admit, that the inhabitants of that section of the country from whence he comes, are all high-minded and honorable men; that they are intelligent, brave, virtuous, moral, religious, and patriotic. But I must take the liberty of reminding the honorable gentleman, that these are not sectional qualities; and that if he will give himself the trouble to consult the page of history, he will learn that those virtues are alike the growth of every part of this extensive, prosperous, and happy country; and I trust I shall not give offence by declaring it as my firm conviction, that the inhabitants of the slaveholding States will not suffer by a just comparison with those of any other section of the Union.

In approaching the constitution of my country, sir, I proceed with a kind of deferential awe: it is a hallowed instrument, with which I am almost afraid to trust myself.

The grant of powers to Congress by the constitution, are embraced in the 8th section of the 1st article; by which Congress shall have power to lay and collect taxes, to borrow money, to regulate commerce, to establish a uniform rule of naturalization, to coin money, to promote the progress of science and useful arts, to constitute tribunals inferior to the Supreme Court,

to declare war, &c. Among the powers enumerated in this section, the one contended for will not be found. But the gentlemen inform us that the power is derived from the 9th section of the same article, or from the third section of the 4th article; but from which of these sections the advocates of this measure have not exactly agreed among themselves. That it cannot be derived from both, I presume, must be admitted; for it would be doing injustice to the profound intelligence of the immortal framers of the constitution, to suppose that they would have employed two distinct sections in different articles of that instrument, to convey the same power. And this diversity of opinion among such able expositors of the constitution, renders it at least doubtful whether it is derivable from either section.

But let us examine the sections referred to. The 9th section of the 1st article is as follows:

"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

It is much to be regretted that any section of this inimitable instrument should have been so constructed as to admit even of doubtful interpretation. It is, however, a proof that perfection belongs not to man, but is an attribute of the Deity. The instrument under consideration is, perhaps, as perfect as man could make it.

The gentlemen who rely upon this section contend that the power impliedly acknowledged to reside in Congress, by the phraseology of this section, to prohibit the migration of slaves, is sufficiently extensive to authorize the interdiction of carrying slaves from one State to another of this Union, or from the States to the Territories belonging to the United States; and that Congress may well regulate the intercourse between the States and Territories, in this regard, and totally prohibit the "migration" of slaves.

On first turning my attention to this subject, with a view to the formation of an opinion upon the section under consideration, I was impressed with the belief that the words "migration and importation" were used as convertible; that they were intended to have the same interpretation; and both to have reference to the introduction of slaves from abroad: for, although the word "persons" was used, I had no difficulty in believing slaves were meant. This construction I believed to be strengthened by the fact that the word "migration" is entirely dropped in the latter part of the section, and the word "such" is made to refer to the persons so to be introduced; Congress being authorized to impose a tax on such importation not exceeding ten dollars for each person. But, on more mature reflection, my mind came to the conclusion that the words were entitled to be considered separately; that they were intended to have distinct meanings, and each to be employed in the performance of a particular office. I was the more easily led to this conclusion from the belief that the great and excellent men who formed our constitution, would not have employed an unnecessary phraseology, or have used words which they did not intend should have their appropriate signification.

The construction, therefore, which I am disposed to give to this section is—that the word "importation," as its appropriate meaning would indicate, looks abroad and was intended to embrace slaves brought into this country from Africa and elsewhere by water. The word "migration" was intended to embrace such as should be brought into the United States by land, from the contiguous territory belonging to foreign powers. For it would have been idle and vain to have prohibited the "importation" or the bringing of slaves directly into our ports—whilst there should be no interdiction of "migration" from the territory of foreign powers immediately adjoining the territory of the United States, and it must be recollected, that at the time of the adoption of the Federal Constitution, this country was bordered in different directions by territory belonging to other nations. By giving this construction you satisfy the full meaning of both words.*

Honorable gentlemen, arguing this as an original question upon the subject of slavery, tell us, very emphatically, that slavery is too great an evil to be tolerated. Suppose we

* This clause in the constitution forms a part of the staple in every speech on the Missouri question, being quoted for opposite purposes by the two sides to the question—by one side, the phrases "migration" and "importation" being held to be synonymous and applicable to slaves within the United States, and their removal from one State to another; by the other side, being held as words of different import, and applicable both to slaves and free persons, brought or coming from abroad. "Migration" implied voluntary action—importation, involuntary. The puzzle in the clause came from the use of both words, and from the necessity as well as the impossibility of finding a consistent meaning for each one. The care of the constitution, in the use of language, was known. Far from using an equivocal phrase, it would not use two of the same import where one was enough; yet here was an exception—a departure from that laudable care; and, according to Mr. Madison, it was done on purpose, and for the case of scrupulous consciences. Mr. Madison, in his letter of November, 1819, to Mr. Robert Walsh, thus accounts for it: "Some of the States had scruples about admitting the term 'slaves' into the instrument: hence the descriptive phrase, 'migration, or importation of persons;' the term migration allowing those who were scrupulous of acknowledging expressly a property in human beings, to view *imported* persons as a species of emigrants, while others might apply the term to foreign malefactors sent or coming into the country. It is possible, though not recollected, that some might have had an eye to the case of freed blacks as well as malefactors." So that this phrase, "migration," which gave so much trouble to our Congress, and excited such alarming apprehension in one-half of the Union, was only a mode of getting a unanimous vote for the same thing, to wit: the non-importation of Africans for slaves after a certain day.

should entertain the opinion that such is the fact, and the people of Missouri should think differently, shall we take upon ourselves to judge for them what is most for their advantage? Shall we deny them the right of opinion? Is this compatible with the genius and spirit of our free constitution? Are these the sentiments of gentlemen who abhor slavery? I had thought, Mr. President, that the pride of opinion was the American's boast. I had fondly hoped that the old doctrine of saving the people from their worst enemy, themselves, had been long since exploded; and that one much more congenial with the principles of our Government had been substituted. I had thought, that, as the people were the source of all power, they might be permitted to judge for themselves in all original and important questions in which their welfare was materially involved. I must contend then, sir, that whether slavery is really an evil or not, is a matter for the people of Missouri to determine for themselves, and not Congress for them. If it is an evil, and they choose to hug it to their bosoms, and to enfold it in their fond embrace, does it pertain to Congress to deny them the privilege? Shall we take from them the right of judging for themselves upon a subject so intimately connected with their welfare? Will those who inveigh so bitterly against the slavery of the blacks make slaves of the white people of Missouri, and rivet chains about their necks? Shall an American Congress, basking in the sunshine of the only free constitution upon earth, unmindful of the blessings which they themselves enjoy, undertake to impose a government upon a portion of their citizens, against their will, and to restrain them in the exercise of rights enjoyed by others? Such a course of conduct might do well for a despot of Europe. Such a procedure might have been expected from a Bonaparte, in the meridian of his splendid career of conquest. But for the meek-eyed sons of a Republic to attempt such a thing, I must confess, Mr. President, has excited my astonishment and regret.

These people are either capable of self-government, or they are not. If the former, permit them to frame a constitution for themselves, restrained only by the obligation imposed by the Federal Constitution—that it shall have a Republican form. Let us grant to them the boon of self-government, without alloy. But if they should be deemed incapable of self-government, let Congress, in tender commiseration for their unfortunate condition, continue "to make all needful rules and regulations," which may be essential for their comfort and protection. But can it be expected that the people of Missouri, the hardy sons of the West, will tamely submit to such a degradation—to such a palpable infringement of their rights? Will they submit to be told that they are incapable of thinking and acting for themselves; that they are incapable of appreciating the advantages, or of avoiding the evils of slavery?

Such submission and humiliation, sir, might be expected from the slaves of an eastern despot, whose souls, enfettered and enchained by arbitrary power, had become so fallen, so degraded, and debased, that they were incapable of the exercise of manly feelings. But to expect such submission from the free-born sons of America, upon whose birth the genius of liberty smiled, who have been nursed in the lap of independence, and grown to manhood, warmed and animated by the genial influence of our happy constitution, is to expect that which reason and nature forbid. 'Tis to expect from freemen the conduct of slaves.

Mr. President, unless these men are composed of different materials from what I presume they are, I fear—much do I fear—that the imposition of restrictions, or the refusal to admit them unconditionally into the Union, will excite a tempest, whose fury will not be easily allayed. It is, perhaps, wrong to predict or anticipate evil, but he must be badly acquainted with the signs of the times, who does not perceive a storm portending; and callous to all the finer feelings of nature must he be, who does not dread the bursting of that storm.

Mr. President, I cannot but imagine to myself intestine feuds, civil wars, and all the black catalogue of evils consequent upon such a state of things. I behold the father armed against the son, and the son against the father. I perceive a brother's sword crimsoned with a brother's blood. I perceive our houses wrapped in flames, and our wives and infant children driven from their homes, forced to submit to the pelting of the pitiless storm, with no other shelter but the canopy of heaven; with nothing to sustain them but the cold charity of an unfeeling world. I trust in God, that this creature of the imagination may never be realized. But if Congress persist in the determination to impose the restriction contemplated, I fear there is too much cause to apprehend, that consequences fatal to the peace and harmony of this Union will be the inevitable result.

When Mr. WALKER had concluded—

Mr. MELLEN rose and said: I rise, Mr. President, to express my sentiments upon the subject under consideration, with a deep conviction of its importance in regard to the lasting welfare and happiness of our country. I approach the question with respectfulness; aiming at nothing beyond plainness and simplicity. On this occasion, I am not disposed, were I able, "to gather and distribute the flowers of rhetoric," notwithstanding the happy example which I have this morning witnessed.

I am not vain enough to believe that I can shed new light upon a question which has been so learnedly and elaborately investigated in both Houses of Congress on a former occasion, and has recently employed the talents of respected individuals in different parts of the Union. I am sure, sir, if the subject has not already been exhausted, the distinguished powers of intellect which will be exerted during the present

discussion will completely exhaust it. Still it is my duty and my pride frankly to express my own, as well as the feelings and opinion of the State I represent; and I cannot decline it, nor consent to give my silent support to the amendment proposed by my honorable friend from Pennsylvania. Notwithstanding some remarks which have been made by those who have preceded me, I can assure those with whom I may differ in opinion, that, for one, I am the firm friend of harmony and peace; and as I am not conscious of any hostility of feeling, no such hostility will be shown; no other language but that of truth and independence can be necessary or proper. With these motives, dispositions, and principles, I will pursue the path of duty.

We are told, sir, that, in relation to the subject before us, an unusual and alarming degree of excitement exists in the public mind; that the community is in a state of threatening agitation; and we have been repeatedly admonished, and in very intelligible terms too, to extend our view to consequences. Without at present considering those consequences which have been named, permit me, Mr. President, to inquire, "in what this excitement consists?" and what are the proofs of it? I believe there is an opinion on this interesting subject; an opinion deep and strong, and expressed, in various places and on various occasions, in emphatic language, but in a manner as calm as it is firm. Among the friends of the proposed restriction, I have never heard of any other excitement. Surely it does not appear within these walls; nothing can be more cool and dispassionate than our discussion thus far: no other warmth is displayed than that which is naturally produced by intellectual exertion. Sir, if the agitations of the community could be heard from our windows, they ought not to disturb the calm of this hallowed hall of legislation, or produce an undue effect upon our deliberations. But, sir, if we look abroad, do we see any thing more than the excitement which I have described? It is true, there is a lamented difference of opinion on this important question—the further extension of slavery. A portion of the community believe that Congress have no constitutional authority to interdict this extension of slavery in the new States to be formed west of the Mississippi; and that, if they had, it would be unwise and unjust to exercise the authority. Another portion of the community firmly believe that Congress do possess this authority, and that they are under the obligations of duty to exercise it; and that its exercise would produce lasting and extensive blessings. This opinion, I have before observed, is deep and strong; but the only proof of it is contained in arguments and statements which have issued from the press, or in the language of respectful resolutions or memorials, which have been transmitted to us for our consideration, expressive of the opinions of legislatures or large and respectable bodies of our fellow-citizens. If any other proof of unusual and alarming excitement can be found, it is not among those who advocate the proposed amendment. Why, then, Mr. President, is the question to be prejudiced by allusions to circumstances which have no existence but in imagination; and why should there be an attempt to divert us from our object, by these collateral considerations? But, sir, we have been again and again cautioned, in the language of terrifying prophecy, to pause and consider before it may be too late. We are told, that if the friends of the amendment should obtain their object, and succeed in excluding slavery from Missouri, and in maintaining a principle that will exclude it from the extensive territory beyond the Mississippi, sectional jealousies and animosities will be the immediate consequence; the harmony of our great and happy family will be destroyed: commotion and civil war may next present their horrors, and a dissolution of the Union may be the fatal result. This, to be sure, is a dreadful catalogue of evils; the prospect is dark and melancholy. But, Mr. President, I believe better things of my fellow-citizens. I have better hopes and brighter views; the bands which unite us are not so easily to be broken; we are a great, prosperous, and happy people: heaven has showered upon us ten thousand blessings which demand our grateful acknowledgments. We are becoming more assimilated as our intercourse increases: our social attachments are daily strengthened as our commercial connections are multiplied. And shall all these blessings be put in jeopardy, or destroyed; and all these hopes and promises of our country be thrown away, because Congress may feel it their duty to cherish the spirit of liberty in its best estate, in Missouri, and exclude from thence a principle which would impair her health and beauty? No, sir; I can never dream of such consequences as these, in this land of good feelings and good sense. We must decide the question before us one way or the other, as our sense of duty may direct; and it is to be presumed that, in this case as well as in all others, our habitual respect for the laws and the principles by which our rights are secured, will lead all to a ready acquiescence in the decision which may be made. On this occasion, we cannot pursue a safer course than to act under the influence and guidance of that excellent rule—"Do right, and let heaven answer for the rest."

When Mr. MELLEN sat down—

Mr. EDWARDS, of Illinois, rose, and addressed the Chair as follows:

Mr. President: Having long been out of the habit of public speaking, and finding myself unable to command that composure of mind and self-possession which are so essential to the investigation of a subject as important as the one now under consideration, I should leave the discussion of it to gentlemen who are infinitely more competent to do justice to it, were it not that my silence might seem to sanction the im-

putation of an honorable gentleman who has thought proper to express the opinion that, by my vote of Friday last, which I thought it my duty to give, I had abandoned the interest of the non-slaveholding States of the West.

If such a suggestion be well founded, nothing can be more certain than that I have not been misled by personal considerations; for, my permanent residence and the most of my property being in one of those States, and holding a seat in this House by the kind partiality of the citizens thereof, which I have also often experienced on other occasions, and for which no one could be more thankful; I should be unjust to myself, ungrateful to them, and equally regardless of the dictates of interest and duty, were I not anxiously disposed to promote the best interest of the State which I have the honor in part to represent.

Were I to consult my popularity only, I well know that it would be much easier to swim with, than to resist, the present popular current, which threatens to overwhelm all opposition, and to deluge the non-slaveholding States of the West, with what I consider, with all due deference to the opinions of other gentlemen, political heresies, replete with mischiefs calculated to impair their present as well as future prosperity and happiness.

Sir, I love popularity so well that I would gladly retain it by the utmost devotion to the interests of my constituents; but I would far rather surrender all pretensions to it, than preserve it at the expense of my conscience. I respect public sentiment as much as any man, and should at all times derive the sincerest gratification from being able to discharge the trust confided to me in strict conformity with the wishes of those whom I have the honor to represent—but never can I consent to shelter myself even from the tempest and hurricane of popular excitement, by a violation of that constitution which I, as well as the gentleman from New Hampshire, (Mr. MORRILL,) have solemnly sworn to support. But more of this by and by.

Were an attempt made to introduce slavery into the non-slaveholding States of the West, then, indeed, might there be just cause of alarm; and I can assure gentlemen that there is no man who would oppose such a proposition with more determined zeal than myself. But, taking for granted what I shall presently endeavor to prove, that neither the slaveholding States, nor any of us who oppose the proposed restriction upon Missouri, are influenced by a desire to increase slavery in the United States; and that the proposed restriction is not necessary to prevent, nor its omission calculated to augment, the importation of fresh slaves, it is inconceivable to me how the interest of the non-slaveholding States of the West can be compromitted by the admission of domestic slaves into Missouri, more than to permit them to remain in the States where they now are; for, if that portion of political power which, under the constitution, arises from the slavery that now exists, is to be deprecated and dreaded at all, surely it cannot be worse for us in the hands of those whose identity of interest with ourselves affords additional security against its influence being exerted to our disadvantage. As yet, we have had no cause to regret that a portion of such power has been transferred from some of the Southern States to Kentucky and Tennessee, whose sympathies, friendship, and assistance, have never been withheld from us in the hour of need. Our experience, therefore, furnishes nothing to cause us to dread the influence of a similar transfer of power to Missouri.

For my part, considering every part of the Western country identified in interest, and that its domestic improvements, commercial prosperity, and political influence, cannot fail to be promoted by every increase of population, it does appear to me to be the interest of every State in the West, that fair and equal inducements to emigration thither should be afforded to the citizens of every section of the Union, whether slaveholding or non-slaveholding. But, in opposition to this very obvious policy, with an extent of territory greatly beyond the demands of every description of emigrants, and affording infinitely more than sufficient accommodation for all, without any necessity for collisions of interest, feelings, or prejudices, between them, we are called upon to check the emigration of our Southern brethren, by those who dread our growth, and would gladly put an entire stop to emigration from every other quarter. And thus are we invited to let lay waste and uninhabited an immense frontier of our country rather than permit it to be occupied by our Southern brethren, who certainly would not be less our friends by becoming our neighbors.

There are other considerations of vital importance to the Union in general, and to the Western country in particular, which I purposely forbear to press, because I do not wish to excite any unpleasant feelings, am anxious to cherish harmony, and most ardently hope that some compromise may take place which will satisfy the reasonable wishes of all parties.

Mr. President, in attempting to discuss the present proposition, it is not my purpose to advocate slavery in any shape, or to deny that, in its mildest form, it is equally inconsistent with the inherent rights of man, and repugnant to every principle of humanity and philanthropy. On the contrary, I rejoice most sincerely that an increasing sense of its moral injustice and turpitude, and the happy prevalence of more enlightened and magnanimous views throughout every part of our common country, as well as in various other parts of the civilized world, are eliciting the most zealous efforts not only to prevent its extension, but to ameliorate its present condition, which, with the blessing of Divine Providence, I trust will, in due season, eventuate in its final extermination.

The present subject of discussion, surely, is not the expediency of increasing slavery in the United States by importations from Africa or elsewhere; nor is it a question of slavery or freedom: and it does not appear to me to be consistent with candor to attempt to give to it the imposing and delusive aspect of either. And how much soever such an artifice may be resorted to, in other places, for the purpose of rendering popular feelings and prejudices subservient to political views, I felicitate myself in the firm conviction that such unworthy motives can receive no countenance from this honorable body, and that every member of the Senate would disdain to impute to others sentiments which he does not believe them to entertain.

Were it, in fact, a question whether the further introduction of slavery into the United States, by importation from abroad, should be permitted, the universal abhorrence in which a practice so disgraceful to humanity is held by all classes of our fellow-citizens, and the cordial co-operation of gentlemen from every section of the Union, particularly at the last session of Congress, in measures to prohibit it, forbid the belief that such a measure could find one advocate or friend in this House; nor can there be a doubt that we would all cheerfully unite in such farther legitimate means as experience may demonstrate to be necessary to render such prohibition complete and effectual, which I have no doubt is perfectly practicable.

All of us, therefore, entertaining the same abhorrence and repugnance at the further introduction and increase of slavery, the only point of difference between us relates to the slaves that are now among us; and, as it is conceded on all sides that Congress possess no power to abolish the slavery that now exists, it follows that the question of slavery or freedom is not involved in the present proposition, and that an opposition to the restriction that is attempted to be imposed upon the sovereignty and independence of a State, may well exist without any predilection for slavery; for, should our opposition prevail, the State, notwithstanding, like all others in this Union, would be left perfectly free to abolish slavery; and I am very ready to admit that she would consult her best interest by doing so.

I have, Mr. President, viewed, with feelings of the deepest regret, attempts that have been made to excite local and sectional jealousies, particularly against the slaveholding States, upon this subject, in their nature but too well calculated to sap the foundation of that spirit of conciliation which produced this great Confederacy, and to interrupt that social harmony and mutual friendship and confidence which are so essential to maintain and strengthen the bonds our Union.

Experience teaches us, that it is much more easy to produce popular discontent than to limit its operation and influence to the first exciting causes; and, if the proposed restriction upon Missouri is to be carried by arraying popular prejudices in hostility to one principle of compromise that contributed, in no small degree, to produce our present happy Union, is it not to be feared that it may be difficult to limit that hostility by any thing short of the power to assail that principle with success? And if an inequality in the apportionment of representatives in the other branch of the National Legislature, with a correspondent obligation to pay direct taxes in proportion thereto, is to be rendered obnoxious to our fellow-citizens, what security is there that the representation in this House, which, with any such correspondent obligation, and without regard to numbers, reduces the largest States in this Union to a level with the smallest, will share a better fate?

I confess, sir, that while I cannot perceive that the present subject of deliberation furnishes any adequate motives for those attempts at popular excitement, I cannot contemplate them without being penetrated with the most awful apprehensions for the fate of that fair fabric of our freedom, which has hitherto been not more our boast than the admiration of the civilized world. Upon what ground, sir, are those jealousies of our brethren of the slaveholding States predicated? Take, for example, if you please, the case of Virginia, the largest of those States. Does she wish the extension of slavery? Let her known conduct decide. While yet a colony of Great Britain, she distinguished herself pre-eminently by a noble, magnanimous, and persevering stand against it, and enumerated its toleration in the list of grievances, of which she so forcibly and eloquently complained against the mother country. True to the principles she professed, she was the first State in the Union to set the example of efficient opposition to a traffic in human flesh, so disgraceful to our country, and so abhorrent to the principles for which we ourselves contended, by passing a law to prohibit it by severe penalties, as early as the year 1778, in which she has steadfastly persevered from that time to the present day; nor has she ever, on any occasion, been less prompt in assisting to interpose the shield of federal authority to protect the devoted sons of Africa from such ruthless oppression.

Having thus, by the most unequivocal acts, so demonstrated the sincerity of her professions upon this subject, as to extort the highest commendation from the most distinguished advocates of the proposed restriction; and deploring, as she must do, the evils of slavery, what reason have we to suppose that she is now disposed to relinquish those principles, and abandon a policy which, to her honor, she has for such a series of years, pursued with inflexible perseverance, and the wisdom of which is daily more and more developed? No, sir, depend on it, Virginia knows too well what she owes to her own character, ever to descend from the proud pre-eminence which she has acquired upon this subject.

The rest of the slaveholding States have also given such proofs of their decided hostility to the further introduction of slavery among us, as to leave no ground for even the affectation of incredulity upon the subject.

As, then, those States, equally with ourselves, are opposed to the further increase of slavery in the United States, so, with them as with us, the only subject of controversy which the proposed restriction presents, relates exclusively to the slaves that are now among them. And can they have any motives for opposing that restriction which are not truly national, and strictly compatible with the principles of our Confederation? If they had heretofore desired to increase their political power and aggrandize themselves upon the basis of a slave population, would they themselves have voluntarily inhibited the importation of slaves, and united in every means which the wisdom of the national councils has yet been able to devise for its prevention? Were they now even tenacious of that proportion of political power which they derive from the slavery that exists among them, would they be the advocates of a measure calculated to diminish that power, by its tendency to abstract from them, and transfer to a different and distant section of the Union, a large portion of their slaves? And let it be remembered that, to impute to them a desire merely to diminish the number of their slaves, is to admit the most conclusive evidence of their opposition to the increase of slavery, which is the point I have endeavored to maintain.

So far, therefore, from those States being actuated by the motives which, for particular purposes, have been attributed to them, it must be evident that the principles for which they contend are calculated not only to diminish the power of their respective States, but to promote the abolition of slavery itself; for, in proportion as you permit the slaves now among us, to be dispersed, so do you diminish their relative numbers to the white population in any one State, and to that extent, at least, increase their chances of emancipation, as is evinced by the experience of Massachusetts, New York, Pennsylvania, New Jersey, Delaware, &c., and which is also conceded by the supposition that the prohibition of the further admission of slaves into Missouri would be favorable to the emancipation of those who are now there, which seems to be a favorite sentiment with a gentleman (Mr. KING, of New York) of pre-eminent talents, who has distinguished himself by his zealous and able support of the proposed restriction, and who admits that a disposition more favorable to emancipation is gaining ground in the States where slavery exists; that the disproportionate increase of free people of color can be accounted for upon no other supposition; and that, whatever would tend to provide more satisfactorily for the comfort and morals of emancipated slaves, would increase the practice of emancipation; to all which I yield the most hearty concurrence.

It cannot, however, be denied that the difficulties and dangers attendant upon emancipation, in any State, must be in proportion to the number of slaves therein; and it is well known that several of the States have considered emancipation so incompatible with their domestic safety and tranquillity, as to feel the necessity of absolutely prohibiting it, which is a policy that it is not presumable they will abandon. While, therefore, confining the slaves to those States, is calculated to render their bondage perpetual, it must be acknowledged that their dispersion into different sections of the Union would remove many of the most important objections to emancipation, at the same time that it would increase the means of providing more satisfactorily for the comfort and morals of those unhappy beings, and would cherish, by rendering more availing, that increasing disposition to emancipation which imparts so much consolation to every true philanthropist.

Mr. LEAKE, of Mississippi, then rose and said, when he considered the vast importance of the subject now under consideration, it was with great diffidence he arose to address the Senate; but it was the importance of the subject, together with his having been one of the committee to whom it had been referred, which induced him to be unwilling to give a silent vote.

He said he did not intend to go into a lengthy discussion of the subject; he should only touch upon some of the principal points which had been relied on by honorable gentlemen who were in favor of the restriction proposed by the amendment introduced by the honorable gentleman from Pennsylvania, (Mr. ROBERTS.)

Sir, said Mr. L., we have been told by some honorable gentlemen, that the power to impose this restriction is derived from the first clause of the 3d section of the 4th article of the Constitution of the United States. "New States may be admitted by the Congress into this Union," &c. That, as we may admit them, we may also refuse to admit them, unless they will submit to such terms as we may, in the exercise of our discretion, think proper to impose. Sir, said Mr. L., I had always supposed that in the exercise of this power, to "admit new States into this Union," it was only necessary to inquire, first, what are the claims which the people who petition to be thus admitted have on the Congress for such admission? Whether their numbers, their increasing population, and the extent of territory which they inhabit, will justify their admission? If in all these respects you find them duly qualified, and you should deem it expedient to admit them; then the next inquiry is, what is a State within the meaning of the Constitution of the United States? I need not tell the Senate, said Mr. L., that States in different parts of the world mean different things; we all know that a State, separate and unconnected with any other State, means a sovereign independent power, possessing abso-

lute, unconditional and unlimited authority; and according to the distribution of that power, is the character of the State known. If the whole is lodged in a single individual, it is then an absolute despotism; if it be divided into different branches, and the authority divided between them, it is a limited government; and whether it is a limited monarchy, or a republic, will depend upon the duration in office, the mode of coming into office, and the source from whence the power emanates. And when a number of sovereign States connect themselves together in a confederacy, and by their compact yield to their federal government a portion of their sovereignty, in order that that government may be enabled to protect the confederation, those States then become limited sovereignties, and that portion of sovereign power which each State has a right to exercise, depends upon the powers they have delegated to the federal government by their compact, and upon the restraints which they have submitted to have imposed upon them by it.

Mr. President, so far as I am able to judge of the meaning of this clause of the constitution, the needful rules and regulations which the Congress are, by it, authorized to make, relate to the territory itself, that is, the domain, the land, the actual soil belonging to the United States; and not the inhabitants of the territory. Sir, the Congress may dispose of—dispose of what? of the territory or other property; not the inhabitants of that territory. The Congress may make all needful rules and regulations respecting the territory, or other property of the United States. Sir, the word "territory," being immediately followed by the words "or other property," proves, satisfactorily, to my mind, that the word "territory" was there intended to mean, the domain, which the Congress may dispose of by sale or otherwise, and may make such needful regulations respecting its protection from waste or other injury, and to preserve their rights to it unimpaired.

Sir, said Mr. L., we have already seen that the Congress has a right to dispose of, by sale or otherwise, the territory which is the land of the United States. But a sale cannot be effected without purchasers; no person will purchase unless he can be protected in his person and his property. Hence, in order to effect a sale of the public lands, the Congress has the power "to make all laws which shall be necessary and proper" to protect the purchasers in the enjoyment of their lives, liberty, and property; and this can only be done by establishing a system of government for them, until their numbers entitle them to a claim for admission into this Union, upon an equal footing, in all respects whatever, with the original States; after which, when the Congress deems it expedient to admit them as such, it is then no longer "necessary or proper" for the Congress to make laws for their government, and of course the power of the Congress to make these laws ceases to exist.

THURSDAY, January 20.

Maine and Missouri.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the admission of the State of Maine into the Union," together with the amendments reported thereto by the Committee on the Judiciary, and the amendment proposed by Mr. ROBERTS.

Mr. LOWRIE, of Pennsylvania, observed, that so much had been said, and so much had been written, on this subject, it was extremely difficult to say any thing farther that would have any claim to originality; that it was almost impossible to support an argument on either side, without repeating some things which had already been said. This he would endeavor to avoid, and, as the Senate must be, in some measure, weary of the debate, he would treat the question with all the brevity of which he was capable.

In this discussion, it is impossible not to advert to the following maxims, which may properly be called first principles:

"We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that amongst these are, life, liberty, and the pursuit of happiness."

"He that made the world, and all things therein, hath made of one blood all the nations of man."

There is no excuse for hereditary slavery, except self-preservation—beyond this it dwindles into mere farce.

It is not among the natural rights of man to enslave his fellow man.

Slavery is of such a nature, it must take its rise from positive law.

These principles, as abstract truths, are not generally denied. How far they have a bearing on this subject, is a question I will not, said Mr. L., at this moment, take up. I now merely bring them into view; I will advert to them in another part of this argument.

The first question which meets us at the threshold is—have Congress the right to propose to the State of Missouri the restriction contained in the amendment? Before disposing of this inquiry, permit me to say a word on State sovereignties. I, for one, Mr. President, cherish the idea, believing that our political salvation depends upon it; that a consolidation of this extended empire must end in the worst kind of despotism.

The people of the United States, in forming a Government for themselves, established a complex system. The Government of the Union flows as directly from the people as does the government of any of the States. The circumstance that the delegates who formed the present constitution, were appointed by the State Legislatures, does not detract from this idea; because the instrument was afterwards submitted to the people, and had it not been approved

by them, it would have had no more authority than the sweeping of your floor. The Government of the United States, though limited in its powers, is supreme within the proper sphere of its action. The respective Governments of the United States and of the several States are sovereign within their proper spheres, and no farther. Hence it follows, that the States are limited sovereignties. It follows, also, that the right to admit new States, being within the sphere of the General Government, is a right which, to that Government, is perfect. Every gentleman who hears me, knows that these are not new principles; that they have been laid down and acted on by some of our ablest and wisest statesmen.

In the constitution it is provided that "the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax," &c. In this debate it seems generally to be admitted, by gentlemen on the opposite side, that these two words are not synonymous; but what their meaning is, they are not so well agreed. One gentleman tells us, it was intended to prevent slaves from being brought in by land; another gentleman says, it was intended to restrain Congress from interfering with emigration from Europe.

These constructions cannot both be right. The gentlemen who have preceded me on the same side, have advanced a number of pertinent arguments to settle the proper meaning of these words. I, sir, shall not repeat them. Indeed, to me, there is nothing more dry or uninteresting, than discussions to explain the meaning of single words. In the present case, I will only refer to the authority of Mr. Madison and Judge Wilson, who were both members of the Convention, and who gave their construction to these words, long before this question was agitated. Mr. Madison observes, that, to say this clause was intended to prevent emigration, does not deserve an answer. And Judge Wilson says, expressly, it was intended to place the new States under the control of Congress, as to the introduction of slaves. The opinion of this latter gentleman is entitled to peculiar weight. After the Convention had labored for six weeks on the subject of representation and direct taxes—when those great men were like to separate without obtaining their object, Judge Wilson submitted the provision on this subject, which now stands as a part of your constitution. Sir, there is no man, from any part of the nation, who understood the system of our Government better than him; not even excepting Virginia, from whence the gentleman from Georgia (Mr. WALKER) tells us, we have all our great men. But, sir, for all the purposes of my argument, I consider this provision of the constitution as an outpost; and, as I do not intend to rely upon it, gentlemen may have it as a free gift.

In the constitution it is further provided, that "the Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States." From the commencement of the Government until lately, this provision of the constitution received but one construction. In pursuance of this authority, Congress proceeded to regulate the government of the respective territories, until from time to time they were admitted into the Union. In pursuance of this provision, the first Congress sanctioned the ordinance of 1787, which some writers affect to call a usurpation. But another construction is now given. It is said that Congress have power only to dispose of the soil, as they would of the other property of the United States. This construction appears to me to involve an inconsistency, to which gentlemen who make it have not perhaps attended. To dispose of the soil, presupposes a Government to regulate the inhabitants. If this Government be not established by the United States, it must be established by themselves. Suppose that a large colony had purchased one of your territories. You have disposed of the soil, and your power then ceases; they may or they may not acknowledge your authority; they may, if they choose, establish a monarchy. These discordant principles cannot be admitted to flow from the Constitution of the United States. The truth is, Mr. President, that the power to dispose of and make all needful rules and regulations for the territories, and the power to admit new States into this Union, have been given, by the people of the United States, to Congress. They are powers of the General Government within the proper sphere of its action, and, of course, sovereign and supreme. This Government, for the period of thirty years, by its acts, has sanctioned the construction contended for. Territories have been nurtured and protected through their infancy and youth, until, arriving at a proper age, they were admitted into the family of the Republic.

With respect to Louisiana, and the Territories of Arkansas and Missouri, including the whole country claimed by the United States, west of the Mississippi, besides the right given by the constitution, Congress have another superadded, which, although different, is not discordant. France received this district of country from Spain, and ceded the same to the United States, in "full sovereignty." Our title, therefore, to this territory, is perfect and complete. Congress have the same sovereign right to make any provisions, laws, or regulations, which France could have made, had this territory still remained under her jurisdiction. In that case, it will scarcely be contended that France would not have had the right to inhibit the further introduction of slavery. Suppose that the territory of Missouri were now under France, and that the inhabitants had requested of the French Government the privilege of becoming one of the United States; in giving her consent, France could have said, you may be-

come one of those States, on condition that you abolish slavery. In this case, it would have been perfectly competent for France to have proposed this condition. So can the United States: because we have the same sovereignty here that France ever had.

These principles are so plain, it is difficult to illustrate them farther; but let us take the cases of two provinces held by different powers, the one to the North, and the other to the South. Suppose that Canada were to apply to the British Government for liberty to join the American Republics, that Government could say to her, you may have your wish on condition that you abolish your established religion, and your system of villanage; make these fundamental articles of your constitution, and if Congress will consent, you may become one of them. Let us suppose, further, that the twenty years' war which, with pen and ink, we have waged with the Government of Spain, were now to take another direction, and that the inhabitants of Florida were to request His Most Catholic Majesty's permission to join our family. That permission might be granted on any conditions not repugnant to the Constitution of the United States; and, if agreed to by them, and by the Congress, would be binding, and could not be rescinded without a breach of good faith.

Mr. President, if we examine the history of the new States which have been admitted into this Union, we will find that none of them were admitted without conditions, which were to become fundamental articles, irrevocable without the consent of both parties. The cases of Kentucky and Vermont are not exceptions, although they have generally been so considered. Kentucky was formed from the territory belonging to Virginia, and a number of conditions were imposed by the one State, and agreed to by the other, which to this day are binding.

Vermont was not like any of the other States. Her history is briefly this: The territory was claimed both by New York and New Hampshire. In 1761–'2, New Hampshire granted one hundred and thirty-eight townships west of the Connecticut River. New York became alarmed at this preceeding, applied for the territory to the British Government, and obtained a decision in her favor. She then endeavored to dispossess the settlers who claimed under the New Hampshire grants. But her authority was resisted on the part of Vermont, and for twenty-six years this new State maintained her ground. In this contest, the Old Congress pursued an undecided course. In the mean time, Vermont declared itself independent, and so continued till the year 1789, when commissioners were appointed by this State and by New York, who finally agreed that Vermont should be admitted into the Union on two conditions: the one related to her boundaries, and the other required the payment of $30,000 to New York within four years from that period.

Mr. L. observed, that the whole discussion was upon a dry subject, and that this part of it was peculiarly so. I will, therefore, sir, pass over the conditions imposed on the other States. It is the less necessary that I should mention them, as other gentlemen have brought the most of them into view already. Let me observe, however, that in the nine new States, there are seventeen distinct conditions attached, not one of which is applied to the old thirteen States. The new States are restricted in their taxes; they are restricted from touching the right of the soil; they are restricted in their highways and navigable streams of water; and three of them, which at no distant day will be three of the brightest stars in our political constellation, are restricted as to slavery. Take the constitution of Maine; restrictions are there imposed by Massachusetts. Nay more, sir, look at the amendment reported by the honorable chairman of the Judiciary Committee, and even to Missouri, this favorite child, we find restrictions. It is true, these restrictions are placed in the bill under the cover of provisos; so, let me tell gentlemen, is the restriction offered as an amendment by my colleague. Our right is admitted to impose one restriction; but to impose another restriction, not involving the necessity of a greater or higher degree of sovereignty, the right is denied. We have called on gentlemen to reconcile these views; much was expected from their talents, but to perform impossibilities is beyond their reach.

The obligation imposed upon this Government by the treaty of cession has been much relied upon. It is said we are all bound to admit Missouri, and that upon her own terms; that, in her case, we have no discretion. Mr. President, it is a sufficient answer to say, that the treaty-making power cannot control the genius of the constitution. New States *may* be admitted, are the words of this instrument. Sir, it never was in the contemplation of the people, when they passed upon this provision, to suppose that the President and two-thirds of the Senate could change its import. If gentlemen will still contend that the treaty differs from the constitution, they must be told that, as far as that is the case, the treaty itself is a nullity.

It is further said, that the treaty guarantees their property to all the inhabitants of Missouri, and that this property embraces slaves. At the date of this treaty of cession almost the whole of this territory was a wilderness, and a large portion of it is still a wilderness. Admitting for a moment that slaves are property, it must be proved that any others, besides those there at the date of the treaty, were intended to be embraced by its provisions. This cannot be shown. The inhabitants then there were the parties we admit to this treaty; and, whatever may have been their rights or their property, they are not touched by this amendment. But, farther proof is still wanted, because it is denied that the word *property*, in this treaty, means slaves. Here I ask no rule of construction that is foreign to the subject. Apply to the writers

on the law of nations; let them pass upon these words; try them by the principles of the constitution; submit them to the test of reason; there all speak the same language; they tell you that *slaves* and *property* are not convertible terms. In the history of our Government, we have a case fully in point: When Virginia ceded the Northwestern territory to Congress, it was on condition that it should become members of the Federal Union, and have the same rights, sovereignty, freedom, and independence, as the other States. This language is as strong as that of the treaty with France; neither can it be denied that, at the time Virginia made this cession, there were in this territory a number of inhabitants professing to be her citizens, and owning slaves.

Congress, with the knowledge of these facts, and the deed of cession before them, passed the ordinance of 1787, by which slavery was banished from this fair portion of our territory. This ordinance was sanctioned by the First Congress; it has been interwoven in the constitution of many of the States; even at the present session, in the admission of the State of Alabama into the Union, it is distinctly recognized. Thus, in a case perfectly analogous, we have a legislative sanction, descending from the First Congress, through many of the intermediate ones, down to the present, which completely covers the ground I have taken. With this example before us, I hazard nothing in asserting that, if Congress had extended the ordinance of 1787 to the territory of Louisiana, excepting from its provisions the slaves then there, this obligation of the treaty would have been fulfilled in good faith.

I will now, Mr. President, said Mr. L., say a few words on the policy of adopting the proposed restriction. We were told the other day by an honorable member from North Carolina, (Mr. MACON,) that we knew nothing about this question, however much we might be disposed to philosophize on the subject. Sir, the experience and integrity of that gentleman have gained him my entire confidence. Although this assertion was not accompanied by any facts or reasoning, it led me to examine anew every principle relating to the policy of this measure. I have also attended to all that has been said against the policy of adopting this restriction, but I have yet found nothing to shake my first convictions on the subject.

It has not been pretended—it cannot be pretended—that the toleration of slavery is necessary for the self-preservation of the people of Missouri. This being the case, the first principles I have already brought into view, bear with their undivided weight upon the question. The gentlemen tell us that slavery is an evil—on this floor they have lamented its existence; and yet, strange as it may seem, they, almost in the same breath, contend for the expediency of extending this evil to the peaceful region west of the Mississippi.

Humanity to the slaves themselves, it is said, requires the rejection of this amendment. Sir, how is the matter of fact on this point? Let us suppose that one hundred families, with each ten slaves, are about to emigrate to Missouri. Every gentleman here knows the situation of this class of our population—the husband is in one family, the wife in another, the children in another. In removing, no respect to these relations can be paid—all must be disregarded; the husband and the wife must part, to meet no more; the father is dragged away, and the mother and the children left, or they are taken and he by force is compelled to stay behind; or, if he escapes after them, he is pursued, bound, and brought back. This, sir, is not fancy; these scenes, but a few months ago, I witnessed in person, amongst emigrants going to this said Missouri. Our humanity may be called sickly, but it gives no sanction to scenes like these.

The gentleman from Illinois, (Mr. EDWARDS,) with great apparent force of reasoning has endeavored to prove that, by opening the extensive regions of the West to the introduction of slaves, nothing is thereby done to spread slavery; that whether they are admitted west of the Mississippi or not, the number remains the same. I presume, sir, that every gentleman here has paid some attention to the principle which governs the population of the human race. It is capable of demonstration, that the population increases faster than the means of subsistence; the one increases in a geometrical, the other in an arithmetical progression. The spring which causes one thousand to double their number in a given time, will cause a thousand millions to double in the same time; in other words, the capability of increase is not affected by the size of the number. Take, for example, an island containing ten thousand farms, of one hundred acres each; let it be supposed that there is an inhabitant for each farm, and that they double their number every twenty-five years. In one hundred and forty years there would be more inhabitants than acres, and at the end of the third century there would be above three hundred inhabitants for every acre. But the impossibility of supporting that number on the given territory would keep the inhabitants down to the level of the food. The principles which govern, in the supposed case of this island, will govern in the case of a nation or of the world. In every nation the population presses more or less against the means of subsistence, and from its very nature, must continue to do so, until the end of time.

Apply these principles to the case before us, and what becomes of the gentleman's argument? Seventy years ago the penetrating mind of Dr. Franklin discovered this principle. Go, says he, to Africa, and see if you can discover the gap from whence the negroes have come, that have blackened half America, the West Indies, and many other places! Such will be the case at no distant day, if the policy advocated by gentlemen is now to prevail. A single century will not have elapsed, until the question may be

asked: Where is the gap in any of the slaveholding States from whence have come the slaves, that, from the banks of the Mississippi to the Rocky Mountains, have blackened the whole region of the West? Sir, that opening never will be found, because it never will exist. The spring of population will always keep the number full. A market extended as the forests of your Western regions, is thus opened for the sale of human flesh. Every inducement which avarice or the insatiable love of gain could desire, is held out to the slaveholder to increase the number of his slaves. Under such inducements this class of population will increase with a rapidity heretofore unknown. Even at the rate of increase from 1800 to 1810, in a single century there will be upwards of twenty-seven millions of slaves in the United States. This single fact, founded as it is on arithmetical certainty, is sufficiently alarming; but, sir, it points you to a very different policy than the one contended for by the honorable members on the other side.

Mr. BURRILL, of Rhode Island, said it might probably be thought that the very full discussion which this question had received, rendered it quite unnecessary to add any thing to the elaborate arguments of the honorable gentlemen who had preceded him: I even think so myself, said he; but, having at the last session taken some share in the debate upon a similar motion, it would be expected of me that the same sense of duty which then prompted me to address you, would still continue its effect, unless further reflection or the arguments of honorable gentlemen had produced a change of opinion. No change of that kind has been wrought, and longer and more careful consideration has produced a deeper conviction, not only of the constitutionality, but of the necessity of the proposed restriction. I shall aim, however, to avoid, as far as possible, the repetition of former arguments, for I feel too much impressed with the very kind and encouraging attention which my humble attempts on this floor have always received from the Senate, to tax their friendly patience for any very great length of time.

The objection principally relied upon by those who have opposed this restriction is, that the constitution gives us no power to impose it; and they call upon us, in a manner which implies that they feel themselves strong on this point, to produce the clause or article in which the power is granted. Objections of a constitutional kind, opposed to a measure of legislation, are entitled to respect, and must be answered; but they have so frequently been urged, in Congress and in the States, against almost every measure proposed or adopted, that they have lost the importance arising out of their name and source, and must stand upon their own merits, or, which is sometimes unfortunately the case, will stand upon the eloquence and ability of those who urge them. In the threshold, I might ask honorable gentlemen whether the burden of this argument is not thrown upon their shoulders rather than ours. We propose to subject Missouri to no other restrictions than, in 1787, was imposed by the "immortal" ordinance, as the gentleman from Pennsylvania has, with great force and propriety, called it, upon the whole Northwestern Territory, a restriction which was readily and freely assented to, under an act of Congress, by the States of Ohio, Indiana, and Illinois, and to which the unparalleled growth and happy condition of the first of those fertile and extensive States is, in a great degree, to be ascribed. A restriction, then, the propriety of which is strengthened by a reference to the conduct of the old Congress and of the new, of the States and of the Union, ought not hastily to be condemned as unconstitutional. It has often been repeated within doors and without, that our free and happy constitution, in which so many apparent contradictions and jarring interests are reconciled into a strong and harmonious Federal Government, was, in great part, the fruit of compromise. We have often been reminded, and I shall not soon forget it, that the small States are indebted to this principle of conciliation and compromise for their equal suffrage in this branch of the National Legislature. On such occasions, it is but fair and equal to remind other gentlemen that the same friendly and patriotic principle has given to the slaveholding States a representation upon property in the other House, and that the compensation intended to have been made by the apportionment of direct taxes, according to the same ratio, has, owing to the ability or disposition to dispense with such taxes, except in a very few instances, never been received.

But, Mr. President, this principle of compromise went much farther. Almost all the States, and nearly every individual in the Convention, considered slavery as an evil, and an evil, as one of the gentlemen from Georgia has observed, in the course of this debate, to be tolerated, because it could not be remedied. They also agreed that the traffic in slaves on the African coast was inhuman as well as impolitic, and ought, as soon as possible, to be suppressed. There was still, however, an unwillingness in some gentlemen, that Congress should have the immediate power to interdict this trade. The Convention, therefore, in the spirit of compromise, agreed to a limitation on that general power which Congress would, by the constitution, have possessed over the migration and importation of slaves, and they inserted in the 9th section, 1st article, that "the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person." It is very observable that the convention have, throughout the constitution, sedulously avoided the words slaves and slavery. One of the most distinguished members of that body proposed the substitution of other words,

and said he hoped that the time might arrive, during the existence of this constitution, when slavery would no longer exist, and he wished there might be no memorial in the constitution itself, that it ever had existed. We have the evidence of the venerable Mr. Jay, as to the intention of the Convention. There was, in fact, this compromise: Congress shall have the power of preventing the migration and importation of slaves; but as to the States then existing, they shall not exercise it till 1808. As to new States, their power was not even temporarily restrained. In truth, there was then, as unfortunately there is not now, a universal disposition to restrain and limit the extension of slavery. In the same spirit was conceived and enacted the ordinance of 1787, passed unanimously, assented to by all the States concerned, and ratified by the first Congress under the new constitution. An ordinance, too, enacted during the session of the Convention, by persons, some of whom were members of both bodies, and having an effect not upon the spirit merely, but upon the frame and phraseology of the constitution. In short, those great men considered that henceforth we had adopted, as a basis, a fundamental principle of our polity, that domestic slavery was not to be further extended.

On these grounds, the limitation on the otherwise unlimited power of Congress over this subject was confined to the States then existing. It was already prohibited in the Territories by the ordinance, and Congress were not to be restrained or limited in this regard by the temporary limitation as to the then existing States. The then existing States were to do as they thought fit till 1808; and in fact—and to their honor be it said—the greater number prohibited immediately, and had already prohibited both migration and importation: but as to the Territories; as to new States; as to States not then existing; the power of Congress was unfettered—was supreme. It has not been sufficiently considered, that the clause under consideration is not a grant of power, but a limitation of a power which existed in Congress by the force of the express words of the constitution, or by a necessary implication. And this limitation, too, we must bear in mind, was temporary, and to expire in the short period of twenty years. But it is urged by honorable gentlemen, that, though Congress might prohibit importation after 1808, they could not prohibit the carrying of slaves from one State to another, and consequently not into new States. Gentlemen who deny the ordinance of 1787, and resist the force of the argument derived from the various legislative expositions of Congress, ought at least to agree among themselves as to the meaning of the word *migration*. An honorable gentleman from Georgia says that *migration* means the coming from a foreign country by land, and that the meaning is that Congress might prevent the migration of slaves from foreign countries or colonies by land, and the importation from abroad by sea. Other gentlemen say that the word *migration* has no reference at all to slaves, but relates to white foreigners emigrating from Europe.

In regard to the first construction, I may ask, if *migration* relates to slaves coming by land, why has not Congress the power given it of imposing the duty of ten dollars, in the same way as if they were brought by water? In fact, it is in both cases an importation, and the Convention were in this case guilty of the sin of tautology if this construction is correct. In the acts against the slave trade, importation by land or water is prohibited.

The second construction, which refers this word to the emigration of white free men, is equally inadmissible. What State ever imagined that Congress would prevent the emigration from Europe into this country of white freemen? And, if any jealousy on this head existed, why was the control over Congress to cease in 1808? Were they at liberty to do so strange a thing in 1808, why were they forbidden to do so previous to that epoch? There never was, there never could have been, any fear on this head; nor was there any intention to limit the general superintending power of Congress in relation to the intercourse with foreign nations, or the naturalization of aliens; or, if there was such a fear or such an intention, the ground of the one and the reason of the other would extend far beyond the year 1808. Applying these terms as they were intended to be applied—that is, to slaves—and we have a key to the construction, an explanation of the reason of this limitation of the power of Congress, consistent with what I have stated to have been the general intent of the Convention, which was to restrain and circumscribe slavery. Two of the Southern States would not agree to the immediate prohibition either of importation or migration, and the clause therefore was the fruit of a compromise. A power which two States were apprehensive might be exercised to their injury was to be suspended until 1808. In addition to the fair import of the constitution itself, and to the evidence derived from the ordinance of 1787, and the history of the times, we have a decided legislative exposition of the meaning of the new word *migration*, and the confinement of the restriction to the powers of Congress within the old States, in the conduct of the Executive and Legislature after the acquisition of Louisiana, in 1803.

Under the administration of Mr. Jefferson, when Mr. Madison, a member of the Convention, was Secretary of State, Congress passed an act, March 26, 1804, (vol. 3, p. 603,) for erecting Louisiana into two Territories, one of which was called Orleans; and in regard to Orleans there were enacted, and without (so far as we know) any opposition, important restrictions upon the introduction of slaves. Congress not only interdicted the introduction of slaves from abroad, but they expressly forbade the introduction of any slaves from the old States, which had been imported after May,

1798; and also the introduction of slaves, directly or indirectly, except by a citizen of the United States removing into the Territory for actual settlement, and being at the time of such removal bona fide owner of such slave or slaves; otherwise, the slave to be restored to his freedom. The residue of the old province of Louisiana was placed under the jurisdiction of the Governor and other authorities of Indiana, where, by the ordinance of 1787, slavery was already prohibited. Here then we have, upon a most important occasion, a legislative construction of the constitution on the subject of migration, and also on the power of Congress over Territories, so far forth as relates to slavery; and it is also, as I shall have occasion to show, a commentary upon the treaty of cession of the province of Louisiana.

Indeed, Mr. President, if we look through all the acts of cession and acts for admitting new States—from the admission of Kentucky, February 4, 1791, to the admission of Alabama at this session—we shall find a continual reference to and acknowledgment of the ordinance of 1787, and a recognition of the power in Congress, and a constant exercise of it, too, of imposing such restrictions on the new States, not inconsistent with their perfect equality in federal rights, as were necessary for the security of the rights and property and supremacy of the Federal Government; and of those principles (among which was the prevention of the further spread of slavery) which were and are and always must be the vital and fundamental principles of the Federal Union. Thus, in the acts for the admission of Tennessee, April 2, 1790, and May 25, 1797, though a part of an old State, there is no other reserve on the part of North Carolina, as to the ordinance of 1787, than this: "That no regulation, to be made by Congress, should tend to emancipate slaves." At that time there was a general consent and understanding that this pestilence of slavery was not to be further diffused. But the times are changed, and we are changed with them.

In opposition to the amendment now under consideration, it has been urged that the adoption of it would place the States upon a footing of inequality, and the honorable gentleman from Georgia (Mr. ELLIOT) has said, with great force and elegance, and has supported the proposition by a reference to the history of various confederacies, ancient and modern, that inequality among the members of a confederacy has always proved a source of jealousy and dissension, and, in many cases, of dissolution and ruin. But, sir, the inequalities to which he alluded were inequalities in federal rights. In regard to such rights, can it be pretended that Missouri will be on a footing of inferiority after her admission? Will she not have her Senators, her Representative, her Electors, by the same rules as other States? Must not all the regulations of her commerce, all her relations to the Union, and to other States, be the same as those of Ohio or Vermont? Will she not, according to her population, have the same power and weight as other States? It were to be wished that a greater absolute equality existed among the States as to extent, wealth, and population; but these inequalities are not of the sort which have endangered or destroyed other federal leagues. In regard to the navigation of rivers and other subjects, there is already an inequality, and, from the nature of things, must be, among the States. Louisiana has, by compact, renounced any right to impose tolls upon the passage of the Mississippi and other navigable rivers. Pennsylvania and New Jersey have renounced none of their rights over the river Delaware, nor has New York renounced hers over the Hudson. Louisiana, moreover, has agreed to establish the right of habeas corpus, of trial by jury in criminal cases, and to keep her records in the English language. In fact, she has agreed to exchange, to a certain extent, the principles of the civil or Roman law for those of the common law. In some of the States the trial by jury does not exist in all criminal cases, especially in minor offences; and, in one State, the right to the writ of habeas corpus stands not upon a written constitution, but upon a legislative act. No one will, on these accounts, pretend that there is any inferiority in the federal rights of Louisiana to the rights of any other State.

Mr. MACON, of North Carolina, said he agreed in opinion with the gentleman who had declared this to be the greatest question ever debated in the Senate, and that it ought to be discussed in the most calm and cool manner, without attempting to excite passion or prejudice. It was, however, to be regretted, that while some of those who supported the motion were quite calm and cool, they used a good many hard words, which had no tendency to continue the good humor which they recommended. He would endeavor to follow their advice, but must be pardoned for not following their example in the use of hard words. If, however, one should escape him, it would be contrary to his intention, and an act of indiscretion, not of design or premeditation. He hoped to examine the subject with great meekness and humility.

The debate had brought forcibly to his recollection the anxiety of the best patriots of the nation, when the present constitution was examined by the State conventions which adopted it. The public mind was then greatly excited, and men in whom the people properly placed the utmost confidence were divided. There was then no whisper about disunion, for every one considered the Union as absolutely necessary for the good of all. But to-day, we have been told, by the honorable gentleman from Pennsylvania, (Mr. LOWRIE,) that he would prefer disunion, rather than slaves should be carried west of the Mississippi. Age, Mr. M. said, may have rendered him timid, or education may have prevailed on him to attach greater blessings to the Union and the constitution than they deserve. If this be the case, and it be an

error, it was one he had no desire to be free from, even after what he heard in this debate. Get clear of this Union and this constitution, and it will be found vastly more difficult to unite again and form another than it was to form this. There were no parties in the country at the time it was formed; not even upon this question. The men who carried the nation through the Revolution were alive, and members of the Convention. WASHINGTON was at their head. Have we a Washington now? No. Is there one in the nation to fill his place? No. His like, if ever, has been rarely seen; nor can we, rationally, expect another in our day. Let us not speak of disunion as an easy thing. If ever it shall, unfortunately, come, it will bring evils enough for the best men to encounter; and all good men, in every nation, lovers of freedom, will lament it. This constitution is now as much an experiment as it was in the year 1789. It went into operation about the time the French revolution commenced. The wars which grew out of that, and the difficulties and perplexities which we had to encounter, in consequence of the improper acts of belligerents, kept the people constantly attached to the Government. It has stood well the trial of trouble and of war, and answered, in those times, the purposes for which it was formed and adopted; but now is to be tried, in time of universal peace, whether a government within a government can sustain itself and preserve the liberty of the citizen. When we are told, disunion, rather than slaves be carried over the Mississippi! it ought not to be forgotten that the union of the people and the confederation carried us through the Revolutionary war—a war of which no man can wish to see the like again in this country—but, as soon as peace came, it was found to be entirely unfit for it; so unfit, that it was given up for the present constitution. Destroy it, and what may be the condition of the country, no man, not the most sagacious, can even imagine. It will surely be much worse than it was before it was adopted, and that must be well remembered.

The amendment is calculated to produce geographical parties, or why admonish us to discuss it with moderation and good temper? No man who has witnessed the effect of parties nearly geographical, can wish to see them revived. Their acts formerly produced uneasiness, to say the least of them, to good men of every party. General Washington has warned us against them; but he is now dead, and his advice may soon be forgotten; form geographical parties, and it will be neglected. Instead of forming sectional parties, it would be more patriotic to do them away. But party and patriotism are not always the same. Town meetings and resolutions to inflame one part of the nation against another can never benefit the people, though they may gratify an individual. A majority of them want things right. Leave them to form their own opinions, without the aid of inflammatory speeches at town meetings, and they will always form them correctly. What interest or motive can the good people of one part of the country have for meeting and endeavoring to imitate those of another? No town meeting was necessary to inform or inflame the public mind against the law giving members of Congress a salary instead of a daily allowance. The people formed their own opinions, disapproved it, and it was repealed. So they will always act, if left to themselves. Let not parties, formed at home for State purposes, be brought into Congress, to disturb and distract the Union. The General Government hitherto has been productive enough of them to satisfy those who most delight in them, that they are not likely to be long wanted in it. Enough, and more than enough, has been produced, by the difficulty of deciding what is and what is not within the limits of the constitution. And, at this moment, we have difficulties enough to scuffle with, without adding the present question. The dispute between the Bank of the United States and those of the States; the want of money by the Government, the people not in a condition to increase the taxes, because more indebted at home than they ever were; and the dispute with Spain, might serve for this session. But the beginners of these town meetings may be like the beginners of the addresses of old—want office. If this should be the case, the Government is too poor to gratify them. It is more easy to influence the public mind than to quiet it when inflamed. A child may set the woods on fire, but it requires great exertions to extinguish it. This now very great question was but a spark at the last session.

All the States now have equal rights, and all are content. Deprive one of the least right which it now enjoys in common with the others, and it will no longer be content. So, if Government had an unlimited power to put whatever conditions it pleased on the admission of a new State into the Union, a State admitted with a condition unknown to the others would not be content, no matter what might be the character of the condition, even though it was not to steal or commit murder. The difference in the terms of admission would not be acceptable. All the new States have the same rights that the old have; and why make Missouri an exception? She has not done a single act to deserve it; and why depart, in her case, from the great American principle, that the people can govern themselves? No reason has been assigned for the attempt at the departure, nor can one be assigned which would not apply as strong to Louisiana. In every free country that ever existed, the first violations of the principles of the Government were indirect, and not well understood, or supported with great zeal, by a part of the people.

All the country west of the Mississippi was acquired by the same treaty, and on the same terms, and the people in every part have the same rights; but, if the amendment be adopted, Missouri will not have the same rights which Louis-

iana now enjoys. She has been admitted into the Union as a full sister, but her twin sister Missouri, under the proposed amendment, is to be admitted as a sister of a half-blood, or rather as a step-daughter, under an unjust step-mother: for what? Because she, as well as Louisiana, performed well her part during the late war; and because she has never given the General Government any trouble. The operation of the amendment is unjust as it relates to the people who have moved there from the other States. They carried with them the property which was common in the States they left, secured to them by the Constitution and laws of the United States, as well as by the treaty. There they purchased public lands and settled with their slaves, without a single objection to their owning and carrying them; but now, unfortunately for them, it is discovered that they ought not to have been permitted to have carried a single one. What a pity it is the discovery had not been made before they sold their land in the old States and moved. They must now sell their land and move again, or sell their slaves which they have raised, or have them taken from them, and this after they have been at the trouble and expense of building houses and clearing plantations in the new country; not, it seems, for themselves and children, but for those who are considered a better people. The country was bought with the money of all, slaveholders as well as those who are not so; and every one knew, when he bought land and moved with his property, he had a perfect right to do so. And no one, till last session, ever said to the contrary, or moved the restriction about slaves. The object, now avowed, is to pen up the slaves and their owners, and not permit them to cross the Mississippi, to better their condition, where there is room enough for all, and good range for man and beast. And man is as much improved by moving and range, as the beast of the field. But, what is still more unaccountable, a part of the land granted to the soldiers for their services in the late war, was laid off in Missouri expressly for the soldiers who had enlisted in the Southern States, and would prefer living where they might have slaves. These, too, are now to leave the country of their choice, and the land obtained by fighting the battles of the nation. Is this just, in a Government of law, supported only by opinion—for it is not pretended that it is a Government of force? In the most alarming state of our affairs at home—and some of them have an ugly appearance—public opinion alone has corrected and changed that which seemed to threaten disorder and ill will, into order and good will, except once, when the military was called out, in 1791. Let this be compared to the case of individuals, and it will not be found to be more favorable to the amendment than the real case just stated. A. and B. buy a tract of land large enough for both, and for their children, and settle it, build houses, and open plantations. When they have got in a good way to live comfortably, after ten or fifteen years, A. thinks there is not too much for him and his children, and that they can, a long time hence, settle and cultivate the whole land. He, then, the first time, tells B. that he has some property he does not like, and that he must get clear of it, or move. B. states the bargain. A. answers, it is true, that he understood it so till of late; but, that move he must, or get clear of the property; for that property should not be in his way. The kind or quality of property cannot affect the question. Nay, if it was only a difference in the color of their cattle—one preferring red, the other pied. Would this be just? The answer must settle the question with all men who are free from prejudice.

A wise Legislature will always consider the character, condition, and feeling, of those to be legislated for. In a Government and people like ours, this is indispensable. The question now under debate demands this consideration. To a part of the United States, and that part which supports the amendment, it cannot be important, except as it is made so by the circumstances of the times. In all questions like the present in the United States, the strong may yield without disgrace even in their own opinion; the weak, cannot; hence, the propriety of not attempting to impose this new condition on the people of Missouri. Their numbers are few, compared to those of the whole United States. Let the United States, then, abandon this new scheme; let their magnanimity, and not their power, be felt by the people of Missouri. The attempt to govern too much has produced every civil war that ever has been, and will, probably, every one that ever may be. All Governments, no matter what their form, want more power and more authority, and all the governed want less government. Great Britain lost the United States by attempting to govern too much, and to introduce new principles of governing. The United States would not submit to the attempt, and earnestly endeavored to persuade Great Britain to abandon it, but in vain. The United States would not yield; and the result is known to the world. The battle is not to the strong, nor the race to the swift. What reason have we to expect that we can persuade Missouri to yield to our opinion, that did not apply as strongly to Great Britain? They are as near akin to us as we were to Great Britain. They are "flesh of our flesh, and bone of our bone." But, as to kin, when they fall out, they do not make up sooner than other people. Great Britain attempted to govern us on a new principle, and we attempt to establish a new principle for the people of Missouri, on becoming a State. Great Britain attempted to lay a three-penny tax on the tea consumed in the then colonies which were not represented in Parliament; and we to regulate what shall be property, when Missouri becomes a State, when she has no vote in Congress. The great English principle of no tax without representation was violated in one case, and the great American

principle, that the people are able to govern themselves, will be, if the amendment be adopted. Every free nation has had some principle in their government to which more importance was attached than to any other. The English was not to be taxed without their consent given in Parliament; the American is to form their own State government, so that it be not inconsistent with that of the United States. If the power in Congress to pass the restriction was expressly delegated, and so clear that no one could doubt it, in the present circumstances of the country, it would not be wise or prudent to do so; especially against the consent of those who live in the territory. Their consent would be more important to the nation than a restriction which would not make one slave less, unless they might be starved in the old States.

Let me not be understood as wishing or intending to create any alarm as to the intentions of the people of Missouri. I know nothing of them. But in examining the question, we ought not to forget our own history, nor the character of those who settle on our frontiers. Your easy, chimney-corner people, the timid and fearful, never move to them. They stay where there is no danger from an Indian, or any wild beast. They have no desire to engage the panther or the bear. It is the bravest of the brave, and the boldest of the bold, who venture there. They go not to return.

The settling of Kentucky and Tennessee, during the war of the Revolution, proves, in the most satisfactory manner, what they can do, and will undergo, and that they will not return. The few people who first settled there, had to contend, without aid from the States, against all the Indians bordering on the United States, except the Chickasaw and Choctaw nations, and maintained their stations. The Northern tribes, unaided by the Southern, attacked the United States, since the adoption of the constitution, defeated two armies, and it required a third to conquer them. The frontier people, in the Revolutionary war, as well as in the late, astonished everybody by their great exploits. Vermont, though claimed in the Revolutionary war, by New Hampshire and New York, was not inferior to any of the States in her exertions to support independence. The gentleman from Pennsylvania will pardon me for stating, that that State had had some experience of their government managing a few people, who would not yield obedience to their authority, though settled within their limits. They were obliged to compromise. I mean the Wyoming settlers. Again, since this Government was in operation, a few people settled on the Indian lands: they were ordered to move from them, but did not obey. The military were sent to burn their cabins. The commanding officer told them his business, and very humanely advised them to move what property they had out of them. This they did, and their cabins were burnt. They waited till the troops marched, and very soon after built new cabins on the same places. and to the same backs where the old ones had been burnt. These facts are stated to show that a contest with people who believe themselves right, and one with a Government, are very different things. It would have been very gratifying to me to have been informed by some one of the gentlemen who support the amendment, what is intended to be done if it be adopted, and the people of Missouri will not yield, but go on and form a State Government, (having the requisite number, agreeably to the ordinance,) as Tennessee did, and then apply for admission into the Union. Will she be admitted, as Tennessee was, on an equal footing with the original States, or will the application be rejected, as the British government did the petitions of the Old Congress? If you do not admit her, and she will not return to the territorial government, will you declare the people rebels, as Great Britain did us, and order them to be conquered, for contending for the same rights that every State in the Union now enjoys? Will you for this order the father to march against the son, and brother against brother? God forbid! It would be a terrible sight to behold these near relations plunging the bayonet into each other, for no other reason than because the people of Missouri wish to be on an equal footing with the people of Louisiana. When territories, they were so. Those who remember the Revolution will not desire to see another civil war in our land. They know too well the wretched scenes it will produce. If you should declare them rebels, and conquer them, will that attach them to the Union? No one can expect this. Then do not attempt to do that for them which was never done for others, and which no State would consent for Congress to do for it. If the United States are to make conquests, do not let the first be at home. Nothing is to be got by American conquering American. Nor ought we to forget that we are not legislating for ourselves, and that the American character is not yielding when rights are concerned.

But why depart from the good old way, which has kept us in quiet, peace, and harmony —every one living under his own vine and figtree, and none to make him afraid? Why leave the road of experience, which has satisfied all, and made all happy, to take this new way, of which we have no experience? The way leads to universal emancipation, of which we have no experience. The Eastern and Middle States furnish none. For years before they emancipated they had but few, and of these a part were sold to the South, before they emancipated. We have not more experience or book learning on this subject than the French Convention had which turned the slaves of St. Domingo loose. Nor can we foresee the consequences which may result from this motion, more than the convention did in their decree. A clause in the Declaration of Independence has been read, declaring "that all men are created equal;" follow that sentiment, and does it not lead to universal

emancipation? If it will justify putting an end to slavery in Missouri, will it not justify it in the old States? Suppose the plan followed, and all the slaves turned loose, and the Union to continue, is it certain that the present constitution would last long? Because the rich would, in such circumstances, want titles and hereditary distinctions; the negro food and raiment; and they would be as much or more degraded, than in their present condition. The rich might hire these wretched people, and with them attempt to change the Government, by trampling on the rights of those who have only property enough to live comfortably.

Opinions have greatly changed in some of the States in a few years. The time has been when those now called slaveholding States were thought to be the firm and steadfast friends of the people and of liberty. Then they were opposing an Administration and a majority in Congress, supported by a sedition law; then there was not a word heard, at least from one side, about those who actually did most towards changing the Administration and the majority in Congress, and they were from slaveholding States. And now it would be curious to know how many members of Congress actually hold seats in consequence of their exertions at the time alluded to. Past services are always forgotten when new principles are to be introduced.

It is a fact, that the people who move from the non-slaveholding to the slaveholding States, when they become slaveholders by purchase or marriage, expect more labor from them than those do who are brought up among them. To the gentleman from Rhode Island (Mr. BURRILL) I tender my hearty thanks, for his liberal and true statement of the treatment of slaves in the Southern States. His observations leave but little for me to add, which is this, that the slaves gained as much by independence as the free. The old ones are better taken care of than any poor in the world, and treated with decent respect by all their white acquaintances. I sincerely wish that he, and the gentleman from Pennsylvania, (Mr. ROBERTS,) would go home with me, or some other Southern member, and witness the meeting between the slaves and the owner, and see the glad faces and the hearty shaking of hands. This is well described in General Moultrie's History of the Revolutionary War in South Carolina; in which he gives the account of his reception by his slaves the first time he went home after he was exchanged. He was made prisoner at the surrender of Charleston. Could Mr. M. have procured the book in the city, he intended to have read it, to show the attachment of the slave to his owner. A fact shall be stated. An excellent friend of mine—he, too, like the other characters which have been mentioned in the debate, was a Virginian—had business in England, which made it necessary that he should go to that country himself, or send a trusty agent. He could not go conveniently, and sent one of his slaves, who remained there near a year. Upon his return he was asked by his owner how he liked the country, and if he would have liked to stay there? He replied, that to oblige him he would have stayed; the country was the finest country he ever saw; the land was worked as nice as a square in a garden; they had the finest horses, and carriages, and houses, and every thing; but that the *white servants* abused his country. What did they say? They said we owed them (the English) a heap of money, and would not pay. To which he added, their chief food was *mutton*—he saw very little *bacon* there.

The owner can make more free in conversation with his slave, and be more easy in his company, than the rich man, where there is no slave, with the white hireling who drives his carriage. He has no expectation that the slave will, for that free and easy conversation, expect to call him fellow-citizen, or act improperly.

Massachusetts, Pennsylvania, and Virginia, have been often mentioned in the debate; and it has frequently been said, that the two first had emancipated their slaves; from which an inference seemed to be drawn that the other might have done so: emancipation, to these gentlemen, seems to be quite an easy task. It is so where there are but very few; and would be more easy if the color did not everywhere place the blacks in a degraded state. Where they enjoy the most freedom, they are there degraded. The respectable whites do not permit them to associate with them, or to be of their company when they have parties. But if it be so easy a task, how happens it that Virginia, which before the Revolution endeavored to put an end to the African slave trade, has not attempted to emancipate? It will not be pretended that the great men of other States were superior, or greater lovers of liberty, than her Randolph, the first President of the First Congress, her Washington, her Henry, her Jefferson, or her Nelson. None of these ever made the attempt—and their names ought to convince every one that it is not an easy task in that State. And is it not wonderful, that, if the Declaration of Independence gave authority to emancipate, that the patriots who made it never proposed any plan to carry it into execution? This motion, whatever may be pretended by its friends, must lead to it. And is it not equally wonderful, that, if the constitution gives the authority, this is the first attempt ever made, under either, by the Federal Government, to exercise it? For if, under either, the power is given, it will apply as well to States as Territories. If either intended to give it, is it not still more wonderful that it is not given in direct terms? The gentlemen would not then be put to the trouble of searching the confederation, the constitution, and the laws, for a sentence or a word to form a few doubts. If the words of the Declaration of Independence be taken as part of the constitution, and that they are no part of it, is as true as that they are no

part of any other book, what will be the condition of the Southern country when this shall be carried into execution? Take the most favorable which can be supposed, that no convulsion ensue—that nothing like a massacre or war of extermination takes place, as in St. Domingo: but that the whites and blacks do not marry and produce mulatto States—will not the whites be compelled to move and leave their land and houses, and leave the country to the blacks? And are you willing to have black members of Congress? But if the scenes of St. Domingo should be reacted, would not the tomahawk and scalping-knife be mercy?

MONDAY, January 24.

Admission of Missouri—New Jersey Resolutions.

Mr. WILSON communicated the resolutions of the Legislature of the State of New Jersey, protesting against the admission of Missouri without a prohibition of slavery, and directing a copy of the Resolutions to be communicated to its Senators and Representatives in Congress.

TUESDAY, January 25.

The VICE PRESIDENT having retired from the Chair, the Senate proceeded to the choice of a President *pro tempore*, as the constitution provides; and the honorable JOHN GAILLARD was elected.

On motion by Mr. SANFORD the Secretary was directed to wait on the President of the United States, and acquaint him that the Senate have, in the absence of the Vice President, elected the honorable JOHN GAILLARD, President of the Senate *pro tempore*, and that the Secretary make a similar communication to the House of Representatives.

RUFUS KING, appointed a Senator by the Legislature of the State of New York, for the term of six years, commencing on the fourth day of March last, produced his credentials, was qualified, and took his seat in the Senate.

Maine and Missouri.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the admission of the State of Maine into the Union," together with the amendments proposed thereto.

Mr. OTIS addressed the Senate this day, at considerable length, in reply to Mr. PINKNEY, and in favor of the restriction on Missouri. His speech is given entire, as follows:

Mr. OTIS, of Massachusetts, observed, that when the bill for admitting Missouri into the Union, at the last session, passed the Senate, he was among those who voted in its favor. It was introduced only a few days before the adjournment, and was certainly not regarded as a measure pregnant with the important interest which had since been attached to it. There was hardly a serious debate about its passing, in which two or three gentlemen only took part. Having, at that time, but imperfect means of examining the merits of the question, he first voted with those who were in favor of a postponement; but finding this was lost, he thought, under the best view he could then take of the question, that the people of that territory, having migrated thither under an expectation of being placed on the same footing with the States already carved out of the same cession, had some claims to a similar indulgence. But his idea was, that it should stop here, and that all would concur in measures to prevent the further extension of slavery into the territories and the States in future to be erected within them. And if this could now be effected, and the bill for admitting Missouri could be accompanied by such guards and provisions as would forever preclude the spread of that moral pestilence, he should not repent of the oblation he had then offered to the spirit of conciliation. He should, on the other hand, with his present impressions, be inclined to repeat it. But perceiving, as yet, no disposition promising such a result, and considering that the ground now taken by the friends to the bill involved an absolute denial of the powers of the General Government to make any compact binding on States hereafter to be admitted into the Union; a doctrine against which he altogether protested; he felt it to be his duty to support the amendment. These circumstances would account for, and excuse his indiscretion, in attempting to engage the attention of the Senate, after the display of eloquence with which they had been regaled for two entire days. He was sensible of the disadvantage under which he labored, and could only forewarn the Senate of the disappointment which awaited them, if his rising should be thought to indicate an intention of replying in detail to the argument of the gentleman from Maryland, (Mr. PINKNEY.) Various considerations forbad his making any such effort. He was quite sensible of his own incompetency to follow him through his enchanted grounds. To many of his principles he was disposed to assent. Some of them his recollection could not embody: like the rays of the diamond they sparkled, dazzled, and were gone. And a very large class of his remarks he could regard merely as the gold and silver tissue wherewith the honorable gentleman had enriched the splendid dress in which he had thought fit to present himself to the Senate for the first time. With these exceptions enough would still be left for him to undertake, and this he should do in the order in which his mind had been led to investigate and decide on the question, noticing incidentally, and in his own course, those objections of the honorable gentleman which appear to have the most immediate bearing on the subject.

It was asserted by gentlemen that a more grave and portentous question had never been agitated within these walls. This he would not deny; and yet he could not consider it a new

question. If a stranger to our country, but familiar with our history, upon arriving here, at this moment, and witnessing the perturbation of men's minds, within doors and without, should be told, upon inquiring the cause, that it arose from a discussion of the question whether slavery should be inhibited in your territorial possessions; his first impression would certainly be that this question had been put to rest some three and thirty years ago. I have "read (he would be inclined to say) that the earliest exercise of your authority over the domain ceded to the United States, was manifested in a solemn protest against the introduction of slavery into it, and that you thus afforded an earnest of your future policy and intentions in regard to all similar acquisitions of ceded territory. Wherefore, in the ordinance for governing the Northwestern Territory, did you, with such grave deliberation establish, as one of the fundamental principles of civil and religious liberty, for the regulation of your territories in all future time, the exclusion of involuntary servitude, and why would you now relax a system established in the healthful vigor and freshness of your newly acquired liberty, and bring into doubt principles which were then so solemnly determined?" To these inquiries, he said, he should only be able to answer, "*Tempora mutantur et nos mutamur in illis.*"

If the obligations imposed upon us by the constitution were rigorous to the extent which gentlemen seemed to insist, our condition was indeed deplorable. If, while the nations of the old world were forming confederations in order to exclude from their own dependencies the future introduction of slaves, and to propitiate Heaven by an attempt to atone for the past abominations of that traffic of the human species, we are not only inhibited from coming into their system, but are really obliged, by treaty, to open a new and illimitable market within our own territories; and while they are contracting the sphere of human misery and servitude, we are compelled to widen its expanse from the Mississippi to the setting sun: then, indeed, is our situation most humbling. It will be in vain, he feared, to compare the youth and purity of our institutions with the decrepitude of the old world, and the rottenness of their systems, if this be our predicament.

If the President and Senate can, by treaty, acquire possessions in all parts of the globe, and bind us to admit them into our Union, without any restriction upon their laws and usages; should he chance to travel any part of Europe, after these should be admitted as acknowledged principles of constitutional law, and hear his country branded as a region of hypocrisy, and its people as a race of men, who, with liberty in their mouths, carried rods for the backs and chains for the feet of unborn millions, into a new world; he should stand in need of the speech of the honorable gentleman from Maryland, as the only panoply competent to enable him to repel the point of such injurious accusations, as his own invention would not supply him with a satisfactory answer. Still, if in reality our faith, by treaty, was thus plighted, though he should deem the acquisition of the whole territory a vital misfortune, and should think it would have been happier for us if the Mississippi had been an eternal torrent of burning lava, impassable as the lake which separates the evil from the good, and the regions beyond it destined to be covered forever with brakes and jungles, and the impenetrable haunts of the wolf and the panther; yet, he would not then advocate a breach of the public faith, but he should think it the duty of Congress to recommend a new negotiation with the present beneficent monarch of France, to the end of obtaining his release from the provisions of a treaty so fatal to our best interests.

Without this power of annexing conditions, the United States, he said, would be a strange anomaly in the society of nations—compelled to admit to their bosom, and to a participation of their fundamental powers and privileges, without terms or restrictions, any people in whatever part of the world, which the Executive Government should acquire by treaty, however alien their laws and usages might be from those of our own nation. For it is insisted that a colonial policy is abhorrent, from the genius of our constitution, and that States must be formed as soon as possible in all our possessions. He believed no nation on earth but ourselves were ever placed in such a predicament, nor did he perceive how a sovereign State could ever form a union with a foreign sovereign or people without such a power. On the same foundation, alone, could Scotland be held to the restrictions imposed by the articles of union with England. Cases, and those by no means extreme, might be imagined, in which the exercise of such a power would be indispensable to the safety and policy of the principal State. It is not long, for example, since the feudal system prevailed in France; and the Inquisition, though with features somewhat relenting, still holds its iron sway in Spain. Louisiana has belonged to these nations in succession. He knew not whether feudal tenures had been ever introduced into that country; but there was nothing extravagant in the supposition that they, or at least some of the badges of feudality, might have been there tolerated. If such had been the circumstances, should the United States be held to admit new States in that territory, without stipulating for the abolition of these tenures? Must we have subjected our citizens migrating thither to all the oppressions of villanage, of aids and services, and the detestable bondage of the feudal vassals? Or, if a branch of the Inquisition had been established there, could we not have interposed to put down that pillar of an established religion? Or, if the torture had been practised as it was under the civil law in France and Spain, could no controlling power be retained by any compact or agreement to extirpate that abomination?

Mr. O. said he would suppose another case, not likely to happen, but yet, as he trusted, not outrageously improbable. There were, as was well known, in many parts of this country, societies of persons called *Shakers*, of good moral characters, and exemplary habits of industry, whose fundamental doctrines were founded on the duty of celibacy. They are also a rich people, and, in some of the States, experience interruptions in their endeavors to augment their numbers, and inconveniences from laws which press upon their consciences, especially in military concerns. Imagine, sir, said he, all these sects combined and determined to make a pilgrimage, and become sojourners in this new country of promise. Figure to yourself four or five thousand adults of both sexes, with their children, in separate and dismal processions, marching beyond the Mississippi until they should find a spot suited to their occasions; then halting, and sending you a missionary, with the intelligence of their *demand* to be admitted as a State. Are you bound to admit them without a stipulation that they shall make no laws prohibiting marriage, at the moment you know this to be the main design of their emigration, and thus secure to a sect of those peculiar and anti-social tenets a monopoly of the entire State, and a power of virtually excluding from its jurisdiction the great mass of your citizens? There is no end to the instances which might be multiplied, wherein your interferenee would be indispensable for the protection of your citizens, and the prevention of contagious customs and institutions adverse to the policy and nature of our Government. The consequences of the doctrine maintained on the other side would be detrimental to the Territorial inhabitants; it would create a reluctance to admit them all into the Union. Besides, if compacts of this description would not be obligatory hereafter, those already framed are void, and being void in part, are wholly null. Hence would arise uproar and confusion wild: all things done under the ordinance, and the laws which recognize it, are liable to be abrogated. The great and flourishing State of Ohio, and her contiguous neighbors, and all that is fixed to their soil, should of right revert to the Union, and the grants of Georgia and North Carolina are *ipso facto* rescinded; for the subject-matter being not within the powers of the constitution, all contracts respecting it, or growing out of it, must be void.

Here, then, Mr. O. said, he might safely rest the question. Language could not furnish a power more clear and express than the constitutional article to admit new States; and, having these express words for his basis, he would again request nothing better than the speech of the gentleman from Maryland; not his speech of yesterday, but the model of forensic argument and eloquence which he had exhibited in the case of the Bank of the United States, to show that the faculty of imposing conditions was among the necessary derivative powers, even if the meaning of the word *states* was not as explicit as he had shown it to be.

In the view which he had thus presented of the subject, Mr. O. said, he had endeavored to establish principles, which, if sound, contained a substantial refutation of the most important dogmas advanced by the honorable gentleman from Maryland, though not in the order in which they had been arranged by him. He would, therefore, pass rapidly over a review of some of his objections, though his answers might seem like repetitions in another form, of a portion of his previous remarks; and if, among the specimens of brilliant ores and gems that were scattered through the honorable gentleman's collection, he should occasionally find some whose genuineness he doubted, he would take leave to point them out, though his unskilful finger might disturb the beauty of the whole arrangement. The honorable member had dwelt with great pathos upon the enormous character of the power claimed for Congress under the constitution, and its consequent liability to abuse. But the power of full sovereignty is in its nature enormous. If the United States are capable of taking and holding a grant in full sovereignty, there is no security against their abuse of powers, except what arises from the character of the people and their institutions. Here, however, limitations are provided by the treaty. There can be no abuse of power where the inhabitants are entitled to all the rights of citizens of the United States.

It has been also contended, that as Congress has not the constitutional power to establish, so neither is it competent to abolish slavery. To this he answered, that the attempt was neither to do the one nor the other; but to prevent its introduction, by a fair compact, into a new region, where it had not been established by law. He disavowed entirely the right of Congress to interpose its authority in relation to slavery in the old States, and protested against the wish or design to promote a general emancipation of their slaves, nothing doubting but that such a measure would be pregnant with evil to master and man. A more important principle asserted by the honorable gentleman, he said, was this: That when Missouri becomes a State, she would acquire, *ipso facto*, the right to abrogate our restrictions as an incident to State sovereignty. This assertion is, in fact, begging the question. If, by the constitution, conditions may be imposed as precedent to her becoming a State, they cannot be rescinded by Missouri in her capacity of State. There is the widest possible distinction between legislating upon the internal concerns of a State, after she assumes that character, and framing a compact by a legislative act previously to that event, which is to constitute, prospectively, the fundamentals of their future constitution. In order to effect the latter object, it is necessary only to settle the question, whether the inhabitants of a territory have a capacity to con-

tract? If they are destitute of this power, there is no safety in dealing with them, no security for any of your reservations, for your exemption from taxation on your own lands, for securing the trial by jury, or habeas corpus, or any other privilege. If they, on the contrary, are capable of making a compact, how can they become entitled to commit a fraud by breaking it, in consequence of changing the form of their community? If they can bind the United States they can bind themselves. If they can claim charter rights, they must be held to the performance of charter obligations and conditions. The people of the United States have framed a constitution; but their debts, contracts, and obligations, antecedently incurred, have not been, and can never be, with justice or honor, renounced. It would be a most unhappy exposition of State rights that should render the opposite theory convincing to the nation: its moral would be, that no good faith could be expected from a territorial population, and its corollary, that no bargain should be made with them.

WEDNESDAY, January 26.

Maine and Missouri.

The Senate then resumed the consideration of the Missouri question.

Mr. SMITH, of South Carolina, observed, that, after the Senate had heard from the honorable gentleman from Maryland, (Mr. PINKNEY,) a speech of five hours in continuance, not less distinguished for its logical and unsophisticated reasoning, and its pure, classical style, than for its unrivalled eloquence and brilliancy of fancy, and which had been preceded by a number of eloquent speeches from other gentlemen, on the same side of the question, he could hardly indulge a hope that the Senate would believe, at this late hour of the discussion, any further light could be shed upon it. But, as he believed this to be a more important subject than any which had agitated the public mind since this Government had been established, if the Senate would have the goodness to give him their attention, he would beg leave to present his humble views. He knew many gentlemen thought the subject already exhausted; and he would, therefore, that he might not contribute further to weary the patience of the Senate, carefully avoid touching those points which had already been so ably treated, and so luminously explained by others. If he should, it would be to give them a different construction, and from reasons different from those which had as yet been applied.

The first clause of the ninth section of the first article of the Constitution of the United States, in the following words, "the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person," has received a different construction by different gentlemen, on both sides of this question; and he would beg leave to give it his construction. The Constitution of the United States is the supreme law of the land, and, like all other laws, when any doubts arise as respects its meaning, some fixed rules must be resorted to by which these doubts can be solved. The rule laid down by one of the greatest jurists known to us, (Judge Blackstone,) is, to ascertain, by the fairest and most rational means, the intention of the law-giver at the time the law was made or enacted. This is done in various ways; either by the words of the law, by the subject-matter, the context, the effects and consequences, or the reason and spirit of the law itself. This rule has not only the sanction of Judge Blackstone's opinion, but it has the sanction of reason on its side, and which no honorable gentleman of the Senate would controvert.

In looking to the reasons, you must employ all the grounds necessary to ascertain for what purpose a particular principle was adopted; and, if the words of a law are doubtful, to ascertain what particular cause led to the use of those words in that law. In doing this, different gentlemen had presented to the view of the Senate, different reasons why the words "migration or importation" were used in this section of the constitution. Those gentlemen who pressed the principle of restriction, did it on the authority of the words migration or importation. They say the slaveholding States refused to subscribe to the Federal Constitution, unless it should be conceded to them by the non-slaveholding States, that they should be permitted to continue the further importation of slaves from Africa, until the year 1808; and in compromising the principles upon which the constitution should be framed, they yielded to the General Government the right, after that period, to restrain the migration of slaves from one State to another, and hence they pretend to derive the power vested in Congress, to inhibit the admission of slavery into the State of Missouri. They have some other grounds, which they deem auxiliary, and which he would examine presently, but the preceding was their strong ground. For this construction they offer no reasons but that it comports with the general principles of free government, and the spirit of the Declaration of Independence.

On the other hand, gentlemen who oppose the right of restriction have given a different construction, and think that the word "migration" is coupled with the word "importation," and is synonymous, and that the import of it is entirely foreign; that it does not relate to our domestic relations, and could never be intended to regulate the internal distribution of our slaves, [Mr. PINKNEY, of Maryland.] Some other constructions had been presented, and enforced by strong arguments, [Mr. WALKER, of Georgia.] These grounds of construction had been in abler hands than his, and he would not disturb them; but he would repose his solution of these words on a ground which had not yet

been presented to the Senate, by any gentleman on either side. He would draw it from the Declaration of Independence itself; and, for that purpose, would beg leave to read the first clause of that declaration, in these words:

"When, in the course of human events, it becomes necessary for one people to dissolve the political bonds which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to a separation."

Sir, said Mr. S., the gentleman has been a lawyer of the first respectability, and a judge of high standing, in the State he represents; and he could not suppose the gentleman could conceive there was any force in the analogy which he had attempted. The cases were not parallel. Missouri had a claim founded in right; and had the uncle been under any obligation to make titles, he could prescribe no conditions as to what kind of property the nephew should hold on the land. He would have as much right to stock it with dogs, as he would to stock it with cattle or horses. Here he appealed to the legal judgment of that honorable gentleman, to say if he, Mr. S., was not correct. As a sound lawyer, he defied him to negative the position.

Sir, that honorable gentleman, whose mind and eloquence had so often illumined and delighted this Senate, seemed to have fallen far short of his usual greatness. Instead of discussing the constitutional question with his technical abilities, he had been presenting to the Senate the horrid spectacle of bears, panthers, the Mississippi rolling with liquid fire, mad dogs, and hydrophobia! This gentleman has made such a departure from the subject, and has been so incoherent in his arguments, if he had not, at setting out, intimated that he should speak one way and vote the other, he, Mr. S., would have entertained serious apprehensions that the gentleman had really been bit by some of his own mad dogs, and was laboring under the hydrophobia.

There was but one more view which he would take of this case. Much had been said of the effects of slavery upon society. He would compare the morality of the slaveholding States with that of the non-slaveholding States. He did not mean the morality of individuals, but he would compare the political morality of the States. South of the State of Pennsylvania you had heard of no rebellions, no insurrections, no delays in performing all the requisitions of the State and General Governments. The State of Massachusetts had emancipated what slaves she had left, shortly after the Treaty of Peace in 1783. In three years after, they had a rebellion which shook the State to its centre. The courts of justice were broken up throughout the State. The civil authority was put down. Recourse was had to arms, from one end of the State to the other. Battles ensued; some were killed, others wounded, others taken prisoners, and some hanged, or rather condemned, and pardoned by the Executive. It raged to such a degree, that the principal citizens had at one time determined to make no efforts to check it, that the imbecility of a republican Government might be fully manifested, and some Government of greater energy resorted to. What that Government would have been, he knew not; but he supposes they would have chosen a King. This statement was contained in Minot's history of that transaction, which he had then before him, and which had been furnished him from the public library.

The State of Pennsylvania had freed her slaves in 1780. In January, 1791, the Congress of the United States had under consideration the subject of excise. The Legislature of Pennsylvania were then in session. They took up the subject with the same temper—with the same enthusiasm and heat—which they have so lately manifested on the Missouri question, and passed the following resolutions for instructing their members of the Senate to oppose the measure:—

"HOUSE OF REPRESENTATIVES,
"*January* 22, 1791.

"The Legislature of the Commonwealth, ever attentive to the rights of their constituents, and conceiving it a duty incumbent on them to express their sentiments on such matters of a public nature as, in their opinion, have a tendency to destroy their rights, agree to the following resolutions:

"*Resolved*, That any proceedings on the part of the United States tending to the collection of a revenue by means of excise, established upon principles subversive of the peace, liberty, and rights of the citizens, ought to attract the attention of this House.

"*Resolved*, That no public exigency within the knowledge or contemplation of this House, can, in their opinion, warrant the adoption of any species of taxation which shall violate those rights which are the basis of our Government, and which would exhibit the singular spectacle of a nation resolutely opposing the oppression of others, in order to enslave itself.

"*Resolved*, That these sentiments be communicated to the Senators representing the State of Pennsylvania in the Senate of the United States, with a hope that they will oppose every part of the excise bill, now before the Congress, which shall militate against the just rights and liberties of the people."

This was a high-handed measure, to oppose the constituted authorities in this bold and menacing form, because they were about to lay a small duty on whiskey, that delicious beverage. This law was passed by Congress, and, the year following, Mr. Neville, the inspector of the revenue, was often menaced. At length they broke out into an open insurrection in the neighborhood of Pittsburg. The public mind was much agitated. Companies armed themselves, and marched into the neighborhood of the inspector. *Brackenridge*, in his history of that insurrection, which Mr. S. had in his hand, gives the following account:

"The next morning, after daybreak, the inspector, having just got out of bed and opened the door, discovered a number of armed men about the house, and, demanding of them who they were and whence they came, the answer was such as induced him to consider their intentions to be hostile; and, on refusing to disperse, he fired on them. The fire was returned, and a contest ensued. The negroes, from some adjoining small buildings, fired on the flank of the assailants, and they were repulsed with six wounded, one mortally."

He wished to call the attention of gentlemen to this faithful attachment of the slaves; they repelled the insurgents, without an order even from the master. They wounded six, one mortally. This all passed in Pittsburg, and not a white man ever approached the scene. The inspector's houses were all burned down the next day, and no man attempted to oppose them. These slaves have presented an example of fidelity and bravery in defence of their master, while the whole population of Pittsburg were terrified into submission. He presented this for the view of Marcus and his associates. It may serve them as a beacon.

This insurrection extended itself over a great part of the western section of Pennsylvania. It required the strong arm of the General Government to quell it. A regular armed force was called out before its impetuosity could be checked; an impetuosity which threatened to overwhelm that State, if not the whole Union. Does Pennsylvania and Massachusetts wish those feelings and those scenes renewed? If they do, the course they have taken may lead them directly to it. The American people, of whom it was his pride and his glory that he was one, were as honest as any other people in the world, and only wanted to be correctly informed, to do justice to every policy and every measure. But if, under the misguided influence of fanaticism and humanity, the impetuous torrent is once put in motion, what hand short of Omnipotence can stay it?

New York has been a slaveholding State, until very lately, in the strictest sense of the word. The Governor of New York recommended to the Legislature of that State, only three years ago, to take measures for the emancipation of their slaves. Two years ago these measures were taken; and, at the next session of Congress thereafter, their Representatives and Senators came out upon this very Missouri question, as the champions of freedom; and that State has given as hopeful signs of a turbulent temper as either Pennsylvania or Massachusetts, for the time that she has had after emancipation. What progress she will make in revolutions time will develop.

When Mr. SMITH had concluded the Senate adjourned.

THURSDAY, January 27.

Delaware Resolutions against admitting Slavery in Missouri.

Mr. VAN DYKE communicated the following resolutions of the Legislature of the State of Delaware, which were read:

"*Resolved by the Senate and House of Representatives of the State of Delaware, in General Assembly met*, That it is, in the opinion of this General Assembly, the constitutional right of the United States in Congress assembled, to enact and establish, as one of the conditions for the admission of a new State into the Union, a provision which shall effectually prevent the further introduction of slavery into such State: and that a due regard to the true interest of such State, as well as of the other States, requires that the same should be done.

"*Resolved*, That a copy of the above and foregoing resolution be transmitted by the Speaker of the Senate to each of the Senators and Representatives from this State in the Congress of the United States."

FRIDAY, January 28.

Missouri Question.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the admission of the State of Maine into the Union," together with the amendments proposed thereto.

Mr. VAN DYKE, of Delaware, rose and addressed the Senate as follows:

Mr. President: Conscious that I cannot add to the force of arguments which have been already urged against the proposed amendment, with unrivalled powers of eloquence, nothing but a sense of duty, growing out of the peculiar situation in which I stand in relation to this question, could induce me to trespass on the patience of the Senate. This subject, sir, has produced much excitement in different sections of the Union; that excitement has pervaded the State which I have the honor in part to represent; there, too, public meetings have been called; opinions in favor of the proposed restriction have been expressed, and are published under the sanction of names deservedly esteemed for talents and integrity. The Legislature of that State also, in their wisdom, have resolved, that the proposed restriction is compatible with the constitution, and ought to be adopted as a measure of sound policy. That resolution is now upon your table. The opinion of that honorable Legislature justly merits, and will ever command, my sincere respect. To their confidence in me I am indebted for a place in this dignified assembly; to deserve and retain the good opinion of that honorable body will ever be my highest ambition. But, sir, as it is my misfortune to differ from them in sentiment on the great constitutional question, I am not satisfied to give a silent vote.

The honorable gentleman from Pennsylvania who moved the amendment, remarked, that it was a question of great importance between the people of the United States and those of Missouri. It is, sir, a question of importance, because it involves the construction of the great charter of our liberties. The zeal with which the amendment has been urged and opposed, evinces that it excites more than common in-

terest. A question touching the extent of powers delegated to Congress by the constitution, must ever be deeply interesting; for in its decision are implicated the rights reserved to the people, and the sovereignty of the States. It was, however, not anticipated that the Declaration of Independence would be resorted to, as furnishing a key to the construction of the constitution of 1787, or that arguments would be drawn from that source to give color to a claim of power under the latter instrument. Much less was it expected that the recital of abstract theoretical principles, in a national manifesto in 1776, would be gravely urged at this day, to prove that involuntary servitude does not lawfully exist within the United States. To these principles the honorable gentleman has referred, with an air of triumphant confidence, reminding us that the whole people then united in proclaiming to the world, "that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness." Sir, these principles are correct, and intelligible in the political sense in which they were used by the statesmen who signed that manifesto. They are the received doctrines of schools, in relation to man, as he is supposed to exist in the fancied state of nature. But that individuals, entering into society, must give up a share of liberty to preserve the rest, is a truth that requires no demonstration. Those principles formed correct premises from which to draw the conclusion, "that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that the people have a right to alter or to abolish one form of government, and to institute new government." They also formed correct premises from which (under existing oppression) was drawn the inference, "that these united colonies are, and of right ought to be, free and independent States." But, Mr. President, the distinguished statesmen who pledged to each other "their lives, their fortunes, and their sacred honor," in support of that declaration, were not visionary theorists; they were men of sound, practical, common sense, and, from the premises assumed, arrived at sound practical conclusions. When we call to mind the state of this young country at that awful moment, struggling for the right of self-government, engaged in a war with the most powerful nation of Europe, pressed on all sides with accumulating difficulties and dangers, can it be credited that the Declaration of Independence was designed to dissolve the bonds of social order throughout the States—to reduce all men to a state of nature, and to set at large a host of slaves, the readiest instruments to be employed by the enemy in the work of destruction, in the very bosom of the nation? Think you, sir, that it was meant to invoke the genius of universal emancipation, and to proclaim liberty and equality to every human being who breathed the air, and trod the soil of this new Republic? The faith of that man who can believe this, is much stronger than mine. No, sir, that manifesto was not intended—was not understood—to abolish or to alter any law then existing in any State for the security of property, or for the regulation of their internal concerns. Self-preservation—a regard for their own personal safety, and that of their families, and a regard for the best interests of the nation—forbade those sages to do such an act. But, sir, were slaves liberated in any State of the Union by virtue of the Declaration of Independence? Never. On the contrary, wherever emancipation has been effected, it has been by the authority of State laws; and every State has assumed, and invariably exercised, at its discretion, the right of legislating about this class of persons, down to the present day. Pennsylvania, so justly applauded for her benevolence towards these persons, did not admit that they obtained freedom under the Declaration of Independence, for she undertook to loose their chains gradually, by her own legislative authority, in 1780; and even at this moment some are held in involuntary servitude in that State. In truth, sir, we cannot advance a step in the history of the Revolution, without meeting evidence that there were in the nation two separate classes—free men, and those who were not free. Consult the articles of Confederation, emanating immediately from the act of Independence, and signed by many of the same men who signed that declaration, and, in article 4, "free inhabitants of each State," and "free citizens," designate the persons who were to enjoy privileges and immunities under that Government, plainly indicating that there was another class of persons in the country who were not free, and not entitled to those privileges. Consult the Treaty of 1783, which acknowledged the independence of these States, and you will read a stipulation, on the part of the British, for the restoring "of negroes or other property of the American inhabitants."

Another war with the same power has been recently waged, and is happily terminated by the Treaty of Ghent, in which you again find a stipulation for the restoration of "slaves or other property." Sir, the Federal Constitution, whose powers are now under examination, in providing for the delivering up of fugitives from labor, held to service under the laws of a State, recognizes as well the existence of such a class of persons, as that they are held under the State. Open your statute book, examine the different acts which have been passed at different periods, in which it became necessary to notice this class of persons, and you shall be forced to acknowledge that Congress has enacted laws recognizing them as property; sometimes describing them as fugitives from labor, at others calling them slaves. Thus, sir, the act of 12th February, 1793, provides for executing the constitutional provision relative to fugitives from labor. The statute erecting Louisiana into two Terri

tories in 1804, in the same tenth section which was read by the honorable gentleman from Pennsylvania, speaks in plainer language where it provides, "that no slave or slaves shall, directly or indirectly, be introduced into said Territory, except by citizens of the United States removing into said Territory for actual settlement, and being at the time of such removal bona fide owner of such slave or slaves." This section, sir, establishes two facts: First, that a citizen of the United States may be bona fide owner of slaves. Second, that such citizen had the right of removing with his slaves from any State into the newly acquired Territory of Louisiana.

I proceed, sir, to examine the constitutional question which the amendment presents. Happily, Mr. President, we are not investigating the principles of a Government whose origin is buried in the rubbish of antiquity—whose powers are to be collected from history or tradition—which relies on precedent and usage to give color to the usurpation of power in every emergency: acquiring new vigor from every succeeding precedent; and often from precedents created in times of foreign war and domestic violence. Happily for this nation, its constitution is a written instrument, framed in a time of peace, with care and deliberation, by the most enlightened men, and penned with all the accuracy and precision that serious thought and calm reflection could insure. Its history is brief, and known to all: the time and manner of its creation, the circumstances attending its adoption, are familiar. Many of the enlightened statesmen whose talents and labors were devoted to this great work, yet live to share the honors which their grateful country bestows, as a reward due to their distinguished merit.

We must remember, then, Mr. President, that it is a written compact, thus created, thus adopted, whose powers we examine. To insure a correct result, it is proper to bring into view certain rules of reason and common sense, applicable to the construction of all written instruments. That we must look to the intention of the parties, as the polar star, is the great leading rule of construction. This rule applies with equal force to the contracts of individuals in private life—to compacts between sovereign, independent States, as public treaties, and to a compact between the people and Government, in the form of a constitution. To ascertain the intention of the parties, and to execute the compact in good faith, is the duty of an honest statesman. The intention, sir, is most naturally and safely collected from the language and expressions used in relation to the subject-matter. If the expressions be so indefinite or inartificial as to leave the intention doubtful, a comparison may be made of different parts of the instrument for elucidation, and from that comparison an intention may be inferred not incompatible with what is plainly and certainly expressed. Should doubts still remain, the mind recurs to the situation of the parties at the time of the compact, and judges, from the known condition of the parties, how far the proposed construction may comport with reason and good sense. These are means used, under different circumstances, to arrive at truth. In examining a claim of power under this constitution, when we recur to the specific enumeration of powers, attend to the prohibitions there written, and read that jealous declaration of the tenth amendment, that all power not granted is reserved, the conclusion is irresistible, that the United States Government is one of limited powers; that although supreme and sovereign as to all matters within its legitimate sphere of action, yet it cannot claim a general, unlimited sovereignty. The people have created State governments also, and have delegated to them other portions of power within the State limits for the regulation and management of their internal domestic concerns. A British statesman may boast of the omnipotence of a British Parliament; but an American statesman will never claim the attribute of omnipotence for an American Congress.

To the advocates of power, in any instance, the people may with propriety say, show the grant of the power in the constitution. It is incumbent on you to show either that it is granted as a substantive, independent power, or that it is incidental to such a power, by being necessary and proper to be used as a mean to carry such a power into execution. If you cannot show this, your claim is bad, your pretension must fail. In the present instance you search in vain among the enumerated powers of the Congress: examine the whole catalogue, with the most scrutinizing eye, it is not found there: proceed to the section which enumerates all that is prohibited to the States, nothing there written can furnish a plausible ground to infer that such a power was intended to be delegated to Congress. It is not then a substantive, independent power, specified and defined in the general enumeration of powers; nor can it, in my view, be raised by necessary implication. Can it with any color of right be asserted, as a power necessary and proper for carrying into effect any of the specified powers? Here, sir, the advocates of the amendment are equally embarrassed. With which of the specified powers is it connected? which of them calls upon it for aid, or which of them can receive any aid from it? Is it necessary to aid in laying and collecting taxes, borrowing money, or regulating commerce? Sir, you shall name in succession every power enumerated in this instrument, examine and consider them in all their various bearings and relations to the interests and concerns of this nation, and reason and candor shall compel you to acknowledge that the power now claimed to impose this restriction has not the remotest connection with any of them.

Sir, it must be admitted by every statesman, that this constitution never was designed to have jurisdiction over the domestic concerns of the people in the several States. No, sir, these are wisely left exclusively to the State sover-

eignties, as their natural guardians. The proposed amendment, if adopted, will regulate, by an irrevocable provision in a statute, one of the domestic relations of the people of the State of Missouri. Can this be denied? Need I name to this Senate what are appropriately termed the domestic relations of civil life? They are those of husband and wife—to which happily succeeds that of parent and child, too often followed by that of guardian and ward; with all of which is connected that of master and servant, either by voluntary or involuntary servitude. These, sir, with peculiar propriety and truth, are denominated "the domestic relations." They exist in the bosom of the family, in the humble walks of private life, and have no connection with the general political interests of the Union. If Congress can regulate one, why not all of these domestic relations? They all stand on the same level, and if one be within the grasp of your power, what shall exempt or protect the rest? Even the contract of marriage, and the period of release from guardianship, may become the subject of discussion in some future Congress, on the admission of some future State. If such a power exists, who shall stay its hand or prescribe its limits? Sir, the proposed restriction is a direct invasion of the sovereignty of the State—it will wrest from Missouri that power which belongs to every State in the Union, to regulate its domestic concerns according to the will of the people. But further, Mr. President, it cannot escape observation, that, to accomplish the proposed object, Congress must invent a new mode of legislation—a legislation in perpetuity. In the common course of legislation, every law is subject to be altered, or repealed, according to the wisdom and discretion of any future Legislature. Here you transcend the power of any legislative body known to a Republic—you impose by statute a restriction to be and remain irrevocable forever. To such a dilemma the usurpation of power leads. What, then, Mr. President, is the true character of this bill, with such an amendment? Not simply a law, but a law to make, in part, a constitution for the future State of Missouri; nay, more, to make her constitution in that point unalterable forever, and place it beyond the power of the people. Is not this depriving the people of their acknowledged rights, and the State of part of its legitimate sovereignty? If Congress can thus, by anticipation, make part of a constitution for a State, and force it upon her as a condition precedent to her admission, why may not Congress make other parts of her constitution under the form of other conditions? The power is the same, the right is equal. If, sir, the people of Missouri be thus compelled to mould their State constitution according to the mandate of Congress, must not Missouri enter the Union shorn of some of those beams of sovereignty that encircle her sister States? Can she be said to stand upon an equal footing with them? Let truth and candor answer.

But, sir, to this objection it is replied that similar terms were prescribed to the States of Ohio, Indiana, and Illinois. True. Recollect, however, that the condition of those States was, in every respect, different from the condition of Missouri. The ordinance of 1787, passed by Congress under the Articles of Confederation, was tendered to the settlers in the Northwestern Territory, (whether with or without authority, is immaterial now,) as a compact and agreement. The settlers there knew of this compact—made their arrangements accordingly—society there was formed and moulded on the principles of that ordinance, and was thus gradually prepared to adopt the same principles in the State constitutions; and, under these circumstances, the terms were proposed, without opposition, and met the approbation of the people. The maxim, "*volenti non fit injuria*," applies with peculiar force to such a case. Different, in all respects, is the case of Missouri: part of a territory acquired by treaty from a foreign power—never subject to the ordinance of 1787—involuntary servitude existed there at the time of cession, and still exists—the people object to this restriction—insist upon their rights under the treaty, and deny your power to impose such a condition. Under circumstances so entirely dissimilar, the Northwestern States furnish not even the frail authority of precedent to bind Missouri.

MONDAY, January 31.

New York Resolutions against the Extension of Slavery.

Mr. SANFORD communicated the following resolutions of the Legislature of the State of New York, which were read:

STATE OF NEW YORK, IN ASSEMBLY,
January 17, 1820.

"Whereas the inhibiting the further extension of slavery in these United States is a subject of deep concern among the people of this State: and whereas we consider slavery as an evil much to be deplored; and that every constitutional barrier should be interposed to prevent its further extension; and that the Constitution of the United States clearly gives Congress the right to require of new States, not comprised within the original boundaries of these United States, the prohibition of slavery, as a condition of its admission into the Union: therefore,

"*Resolved*, (if the honorable Senate concur herein,) That our Senators be instructed, and our Representatives in Congress be requested, to oppose the admission as a State into the Union of any Territory not comprised as aforesaid, without making the prohibition of slavery therein an indispensable condition of admission: therefore,

"*Resolved*, That measures be taken by the Clerks of the Senate and Assembly of this State, to transmit copies of the preceding resolutions to each of our Senators and Representatives in Congress.

"*Ordered*, That the Clerk deliver a copy of the preceding resolutions to the honorable the Senate, and request their concurrence in the same.

"By order of the Assembly,

AARON CLARK, *Clerk*."

"STATE OF NEW YORK, IN SENATE,
"*January* 20, 1820.

"*Resolved*, That the Senate do concur with the honorable the Assembly in their said resolutions.

"*Ordered*, That the Clerk deliver a copy of the preceding resolution of concurrence to the honorable the Assembly. By order.

"JOHN T. BACON, *Clerk.*"

TUESDAY, February 1.

Missouri Question.

The Senate then resumed the consideration of the Missouri question.

Mr. BARBOUR, of Virginia, said:

Mr. President, the Senate will do justice to my sincerity when I declare that it is with unfeigned reluctance I rise to address them at this stage of the discussion—that, had I yielded to my feelings, instead of obeying a sense of duty, I should have remained silent. Whatever the human mind could well conceive has been either spoken or written on this subject, and no superiority of intellect could add an additional ray of light. So vain a hope, therefore, with my humble pretensions, would be the height of folly.

The question, however, involves such important consequences, whether we view it in its constitutional light, or as it regards the honor of the nation, plighted by treaty, or consider it as to its expediency, as involving the duration of the Union, or in any event its tranquillity, it seems to justify, if not to require, any man to disclose the reasons of his vote. But, personal considerations apart, the feeling which this policy, as insulting as it is unjust, has so justly excited in the South and West, in which my constituents so naturally participate, seems to require that their Representative on this floor should raise his voice, however feeble, in solemn protest against its adoption.

In the contemplation of this subject, and the sentiments avowed in its discussion, I had expected to have felt nothing but unmixed regret; I had expected to have travelled an unpleasant path, filled only with thorns. To my relief, I have found here and there a solitary spot of verdure, on which my eye delighted to dwell. I have seen the most prodigious display of the powers of the human mind; I have seen its empire enlarged far beyond my most sanguine hopes. I do not intend to confine my remarks to one or two, but to extend them to most of those who have engaged in the debate. They have surrounded this body with deserved renown; to which, although I feel a consciousness I cannot add, yet I must be permitted, as a member of this body, to claim some participation. But I have seen more; I have seen a degree of firmness and magnanimity most ennobling to human nature—Senators rising superior to clamor and popular excitement, and filling the measure assigned them by the constitution, at the expense of office, with the sacrifice of popularity, firmly discharging their duty. Such men, compared with the supple politician, who bends like a reed to the blast—who, to promote his own aggrandizement, practises upon the prejudices of mankind—will, by an impartial posterity, when the false fire of the moment shall have subsided, be placed in the zenith, while the latter will be consigned to the nadir of the moral world. Go on, illustrious Senators, in the career of glory you have commenced! Abide whatever sacrifice the faithful discharge of your duty may produce with fortitude, and reap your reward in the consolation of reflecting that you have saved your country from ruin, and in the justice of all trying time! With these exceptions, all that I have heard has filled me with solicitude and pain. I have heard sentiments uttered that go to shake the foundations of the Union, and to produce a revolution in the Government—principles avowed directly hostile to the compact on which reposes our Union, and the doctrine avowed that all power not prohibited belongs to the General Government. To combat these—to deprive them of all authority, by showing their fallacy—will be the object of my endeavors.

I appeal, without the fear of contradiction, to every member of the Senate, from every quarter of the Union, when I ask if the Southern members have not invariably supported, with unanimity, every proposition which had for its object the suppression of the slave trade; and whether, during the last session, we did not indulge them in the project, as wild as it was well designed, of expending thousands for the accommodation of the unfortunate victims of that abominable trade, by authorizing the Government to provide them an asylum in Africa, to be maintained at the public expense. Can, then, any man believe we wish to multiply the number? The question we are called to discuss is not whether slaves shall be multiplied. If it was, there would be but one sentiment here. What is the real question? Shall we violate the constitution, by imposing restrictions on the people of Missouri? While exercising the great privilege of forming their government, shall we disregard the solemn obligations imposed by treaty? And shall we finally do an unmeasurable act of injustice, in excluding the people of one-half the Republic from participating in that country bought by a common treasure and their exclusive councils? And for what? Not to diminish slavery, but to confine it within its present limits—destructive to the slaves themselves, and fatal, eventually, to the whole population—instead of diffusing them over a wide-spread country, where their comforts would be increased, and by their disproportionate numbers they might be within the reach of the suggestions of policy and of humanity. Not to diminish slavery, I repeat again; but to seduce the white population from this portion of country thus interdicted, and to increase the disproportion of the blacks to such an extent as forever to shut the door of hope upon them; or to drive us from the country, and surrender it exclusively to them.

Let us examine them respectively. 1st, let

us consider the 1st clause of the 9th section, 1st article. Gentlemen contend that the word "migration," is the magical word in which is contained the power about to be exercised. The plain answer to this is, that it produces a confusion of ideas, to assert that a clause, whose palpable design was to restrain Congress from exercising an authority, imparts a substantive grant of power; but, it is reasoned, why restrain Congress, till the year 1808, from exercising an authority which they did not possess? Do gentlemen mean to say that all power interdicted by the 9th section would belong to Congress, had not such restriction been inserted? The gentleman from New Hampshire contends for this monstrous doctrine, and asks, had it not been for the clause interdicting titles of nobility, would not Congress have had the power to have created a nobility? The gentleman seems not to understand the first principles of the Government—for, if his doctrine be acted upon, it is equal to a revolution, and a Government of limited powers would instantly be converted into one of absolute authority. I should have paid less attention to this doctrine by supposing that the gentleman had not reflected upon it, had he not uttered the same thing during the last session. It seems, therefore, that this is one of his fixed principles. A more heretical or a more dangerous one, cannot well be conceived. But, sir, were I for a moment to yield a point so palpable as this, still, I might contend that the gentlemen would be without the power contended for. What is the argument on their part, that "migration" and "importation" equally relate to slaves? That "importation" relates to foreign slaves, while "migration" refers to domestic slaves passing from one State to another, and that Congress, therefore, has a right to prevent their passage to the Missouri. Now, I contend that "migration" was intended to refer to free foreigners, coming to this country, while "importation" was intended to apply to slaves from abroad. This conclusion is warranted, as well by the phraseology of the section, as by the circumstances of the country. What is its language? That the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808: but a tax or duty may be imposed on such importation not exceeding ten dollars for each person. If this interpretation be received, the meaning of the clause is intelligible and natural. By dropping "migration" when speaking of a tax or duty, it may be fairly inferred that the migration spoken of was that of freemen, to tax whom would be absurd. But the circumstances of the country at that time are entitled to great weight in forming our opinion. A large portion of the Middle, Southern, and Western States, were sparsely inhabited. It was among the grievances enumerated, as leading to the Revolution, that the Crown of Great Britain had indicated a hostility to the migration of foreigners. Hence, lest the most populous portions of the United States should indulge in a similar abuse of power, Congress was expressly interdicted from taking any step in relation thereto, prior to the year 1808.

That this was the true import of this clause is not only sustained by the consideration to which I have just referred, but is supported by an exposition given us at a period near the adoption of the constitution. Those who opposed the alien law in Congress insisted upon this interpretation, and none with more force than my predecessor, Judge Tazewell, one of the most distinguished men of whom Virginia can boast. In his speech, which I have now before me, on the alien law, he holds the language I now do, and contended that Congress was virtually violating this clause. The Senate will recollect this discussion was in 1798; and it is worthy of remark, that the application of this word to slaves was first made by the friends of the alien law, to elude the force of this argument. The committee of the House of Representatives, in an elaborate report, drawn with a view to defend this law, assert that "migration" related to slaves; but even the authors of that report contend only that it relates to the importation of slaves from abroad. But, we are told, Congress has fixed the meaning of this clause by the law of 1804, interdicting the bringing of slaves into Louisiana from any place in the United States, except by removal with their owners. But nothing is to be gained by this precedent. 1st. Louisiana was a Territory, and not a State. 2d. It was the result of an excitement produced by peculiar causes, which have been amply detailed by the gentleman from South Carolina, and passed probably without discussion. 3d. It was repealed at the next session, by the law relative to the Territory of Mississippi, in which Louisiana was placed on the same footing with that territory. So that, if it weigh any thing, it is against the interpretation contended for, as Congress retraced its steps within one year after the passage of the law of 1804.

Have we not a right to contend, that, if the Convention had intended to give to Congress the power of admitting on conditions, it would have said so? The constitution has not authorized the exercise of such a power directly, and there is nothing to justify the exercise of such a power by implication, if implication were allowable.

If, then, it be true, that your discretion, even as to admission, is limited, as I have endeavored to show, and in the present case all the constituent qualifications exist on the part of the people of Missouri for self-government, you are bound to say that she shall be admitted as a State into this Union. If she be admitted as a State, all the attributes of the old States instantly devolve on her, and the most prominent of those attributes is the right to fashion her government according to the will and pleasure of the good people of that State; whereas your restriction deprives her of that privilege forever; and your restriction applies to a species

of property that most peculiarly belongs to the jurisdiction of the State government. For, can it be believed that the States holding slaves could ever have intended to impart to non-slaveholding States an authority over a property in which they had no common interest; a property, in relation to which, so far from the necessity of surrendering the power to control it to the General Government, self-preservation required that it should be left exclusively to the State governments?

To all this it is replied, that the uniform course of the Government, since the ordinance of 1787, amounts to a precedent not now to be canvassed.

In cases of doubt, it is readily admitted that decisions, after mature deliberation, upon full discussion of distinguished men, are entitled to great weight in analogous cases. Now, sir, how far will the proceedings of Congress, under the ordinance, operate as a precedent? The ordinance itself was founded in usurpation. No such power had been granted Congress by the Confederation. Lest I should be charged with an assumption myself, I will call to my aid the work so frequently referred to—the Federalist. In page 235, this is expressly admitted. It is there stated that it was an assumption on the part of Congress. I have seen it stated, indeed, in a pamphlet or speech, (for I know not what to call it,) that Congress had the power, as incident to their character. Mark the facility with which every usurpation of power is justified! What is not expressly given, may be implied; or, if there be nothing to justify implication, it may be incidental; and, if it be neither the one nor the other, the next step is, that it ought to have been given; and thus, by some means, every power which it is desirable to exercise, will be, or may be, claimed. But, rejecting these claims as entirely untenable, I assert, the ordinance itself was an assumption of power. It is admitted that it has been acquiesced in, and all its provisions have been carried into effect. It is not now to be disturbed. But it still is nothing as a precedent; because it attached to a wilderness, and not to men. Those who subsequently settled this country adopted it from choice. Their sentiments and habits were fashioned by the principles of the ordinance, and, when admitted into the Union, instead of the right of Congress to impose a restriction on them being denied, and discussed, and seriously decided, I am warranted in saying that the question was never stirred. Why inquire into a condition that was perfectly useless, the people themselves not wishing to hold slaves? But this I assert, that the people of the States, embraced by this ordinance, when in convention, considered themselves unrestrained, and considered the question with an exclusive eye to its expediency.

The course, therefore, pursued by the Government, under this ordinance, is not entitled to the least weight as a precedent; but, if it were, I beg leave to present various precedents of a directly different character. The States of Kentucky, Tennessee, Louisiana, Mississippi, and Alabama, have all been admitted without restriction. To what, then, does the history of our proceedings amount? That, in every instance, other than those connected with the ordinance, Congress has admitted without restriction. Congress has never before dared to apply it to a portion of country where slaves were; in effect, where it was to amount to a restriction. It is, however, urged that conditions were imposed on Louisiana. The principal part of these were merely in conformity to the great principles of freedom; were incorporated in the law in reference to the peculiar people whom we were about to introduce into the Union—people who had before lived under a different form of government, and who were supposed not sufficiently versed in the principles of our Government; and were justifiable only, if at all, under the power of Congress to guarantee to each member of the Confederacy a Republican form of Government. I doubt, however, the power of Congress to impose them at all; but sure I am that they had no power to restrict them as to the language which they should employ in promulgating their laws. The best criterion to test the right of Congress to impose this restriction is, to inquire by what means will they enforce obedience, were Louisiana to refuse a compliance. For, to every legitimate power, you have the corresponding one of enforcement. Where the latter is wanting, the former does not exist. This, I think, may be assumed as an axiom in our Government. The exercise, therefore, of this power was without right, and serves no other purpose than to show the facility with which all governments advance in the acquisition of power. They well may be likened to a screw: they never retrograde; every acquisition becomes a temptation to new aggressions, and, not unfrequently, the means by which they are realized. There is one idea so repeatedly urged, that those who entertain it must have credit for their sincerity, and that is, that we have greater power with the States to be formed out of acquired territory than in that originally a part of the United States.

By what course of argument this conclusion is arrived at, I am at a loss to discover. There is but one distinction acknowledged in the constitution, between the then existing States and those thereafter to be admitted, and that is confined to the importation of slaves. This shows that, in all other respects, they were to be on an equal footing with the old States; for, had not such been the design of the Convention, as they discriminated in the one case, they would have done so in every particular where it was intended. In addition, it may be remarked, that in the third clause of the second section of the first article, the same principle of representation, as it regards slaves, was to be extended to such States as may be admitted; pointing directly to the clause of course, that new States might be admitted into the Union.

But, the gentleman from Pennsylvania asks, shall we suffer Missouri to come into the Union with this savage mark on her countenance? I appeal to that gentleman to know whether this be language to address to an American Senate, composed equally of members from States precisely in the condition that Missouri would be in, were she to tolerate slavery. Are these sentiments calculated to cherish that harmony and affection so essential to any beneficial results from our Union? But, sir, I will not imitate this course, and I will strive to repress the feeling which such remarks are calculated to awaken.

How has it happened that these doctrines have slept till this moment? Where were they at the adoption of the constitution, in which slavery is recognized, and the property guaranteed by an express clause? And shall we, the mere creatures of that instrument, presume to question its authority? To every other sanction imposed by our situation, is the solemn oath that we will support it. Where are the consciences of gentlemen who hold this language? But they assure us that they do not mean to touch this property in the old States. What, this eternal, and, as they say, immutable principle, consecrated by this famous instrument, and in support of which we have appealed to God, is to have no obligatory force on the very parties who made it, but attaches instantly you cross the Mississippi! What kind of ethics is this, that is bounded by latitude and longitude, which is inoperative on the left, but is omnipotent on the right bank of a river? Such doctrines are well calculated to excite our solicitude; for, although the gentlemen who now hold it, are sincere in their declarations, and mean to content themselves with a triumph in this controversy, what security have we that others will not apply it to the South generally? This, sir, is no longer matter of speculation; you have heard the doctrine contended for already not at cross roads, or in the city taverns, but in the legislative hall of a State. When it shall be resorted to by faction, who can pretend to prescribe its limits? Every page of history is full of melancholy proofs of the feebleness of that security, which reposes upon the moderation of the ambitious and designing. The means are always made to yield to the end. I, therefore, heard the doctrine with unmixed regret. I fear it is the beginning of new counsels, whose disastrous effects no one can foresee.

But the principal feature in a legislative act is, that it is in the power of our successors to change it; here, on the contrary, you seek to make the regulation immortal. The constitution itself contains a principle of alteration, so as to adapt itself to the progress of human affairs, and yet you place a legislative act beyond all human power of change or modification. I will forbear any further remarks on this branch of the subject, and proceed in the order I proposed. I will now inquire whether, by treaty, we are not restrained from restricting Missouri? By the third clause of the treaty, by which we acquired this country, the inhabitants are to be incorporated, &c.

I consider it not of moment to inquire, whether their admission, according to the principles of the Federal Constitution, relates to the time or the terms of such admission, because they are, when admitted, to enjoy all the rights, privileges, and immunities, of American citizens. An attempt has been made to discriminate between Federal and State rights in a celebrated tract denominated "The Substance of Two Speeches," &c. For my part I have been utterly unable to comprehend the meaning of the author. Does he mean to assert that there may be one or more citizens entitled to Federal privileges and not to State privileges? On the converse, to me it has always appeared as not admitting of a question, that these were indissolubly united in an American citizen. A citizen of the United States must be a citizen of some one of the States, and, as such, entitled to every right or privilege secured by the Federal or State government. If there be any right pertaining to citizens of the United States, it is that of fashioning their Government according to their own will and pleasure. This right was, therefore, secured by compact to the inhabitants of the territory in question, and any attempt to impair or abridge it, is in violation of that treaty. In the same tract it is said, slaves are not property; the gentleman from Massachusetts (Mr. OTIS) frankly admits that this is an unwarrantable assertion, and such must be the award of all mankind. Did not both the contracting parties recognize slaves as property? Were they not known to abound in the territory ceded, and constituting the largest proportion of the property of the people? Is it consistent with reason to suppose that, when such care was taken to secure the people of the territory in the undisturbed enjoyment of their property, the principal part was intended to be excluded? It is mortifying to have to contend with such a shadow. The whole territory ceded was to be admitted into the Union. The letter of the treaty required that it should have been admitted as a whole. You thought proper to divide it; but you suffered the Louisiana part to come in without restriction in this regard. Upon what principle can you reconcile with good faith, the distinction you now set up between Missouri and Louisiana?

Lest I weary you, sir, I will now proceed to the last branch of this interesting subject, which I proposed to discuss: Is it expedient or just?

The first objection that presents itself, is its immeasurable injustice. By whom was the country acquired? By the common treasure of every part of the Union, and by the exclusive counsels of that portion which you seek to interdict by your measure. Yes, sir, I say the exclusive counsels. The opposition which was made to the treaty by which we acquired it, is too recent and too notorious to require proof.

Nay, sir, so inveterate is the opposition, that we have a portion of its leaven mingled with the present discussion. The gentleman from Rhode Island has told us that we acquired it by treaty with a man who has become a private gentleman, and who had no title himself. A country thus acquired, of boundless extent, is to be shut against us. Were our opponents not under the influence of an insatiable ambition, they would content themselves with the enjoyment of a large and disproportionate share of this country, to which they would exclusively succeed, independently of any legal regulation on this subject. This is too obvious to be denied, when we take as our guide the history of our own country, which furnishes indubitable proof that slaves, to any considerable number, are never seen beyond a given parallel of latitude. When you cast your eye on the map of the country in question, it is palpable that much the largest portion would never be occupied by a slave. Why are they not content with this great natural advantage? Can you bring your minds to believe that we shall sit quietly under this act of iniquity, as insulting as it is injurious? Sir, no portion of the United States has been more loyal than the South. Amid all the vicissitudes of party and the violence of faction —in peace and in war—in good and in evil report—we have respected the laws, and rallied around the constitution and the Union. To the Union we have looked, as the ark of our salvation, and the resting-place of our hopes. Is this your reward for our loyalty? Sir, there is a point where submission becomes a crime, and resistance a virtue. In despotic countries even the despot is obliged to keep some terms with his subjects: in free States you more readily arrive at the point to which I allude. Beware how you touch it, in regard to the South! Our people are as brave as they are loyal. They can endure any thing but insult. The moment you pass the Rubicon, they will redeem their much-abused character; they will throw back upon you your insolence and your aggression. But let us suppose they will quietly submit to the wrongs you inflict, what must be their feelings friendly to union—to that harmony so essential to our common prosperity? What is the foundation of our connection? The Federal compact. He must, indeed, be profoundly ignorant of human nature, if he suppose the Union reposes on such a foundation. No, sir, it is a common interest, and those kind and affectionate sentiments which the preservation by a parental government of that interest generates, form its prop and security. Withdraw these, you may preserve the form, but the vital part is gone. To what end do you encounter this great risk? To exclude slavery from Missouri? That cannot be your object. You have slaves there already. These, you say, you do not mean to touch. The principle, then, is given up; the stock they have already there will multiply and fill the land.

But we are gravely told, and upon it all the changes have been rung to excite the prejudices of the non-slaveholding States, that the political influence resulting from the slaves which will be carried to this country, is the principal ground of objection to Missouri's coming in without restriction. You reduce, say they, the white man to an equality with the slave. What sophistry is this! Will not the slave have the same influence in Georgia or Virginia, as in Missouri? His removal to the latter State is, in no way, to increase it. But they will, we are told, multiply faster in Missouri than in the old States. Mark the dilemma in which gentlemen are placed; at one time they weep over the condition of the slave; their tender souls are overflowing with kindness and compassion to their sufferings. To ameliorate their condition, is their professed object. What course do they pursue to accomplish it? To pen them up, as my honorable friend from North Carolina has justly remarked, and cut them off from those benefits which await them in a new and fertile country, the enjoyment of which produces that increase they so much affect to dread. Let us hear no more of humanity—it is profaning the term. Their object is power. They assume the mask of humanity for the purpose of seducing tender consciences, and they, as far as their policy can effect it, devote the very beings whose welfare they pretend to urge as a reason for the measure of which we so justly complain. Yes, humanity is their motto. The interest, the peace, the happiness of the whites, form with them the dust of the balance; their affections are alive only to the condition of the slave. They speak of their measures with great deliberation, and invite us to be calm. They are afar off while this new drama is performing. Turn out comedy or tragedy, they are equally unaffected. On the contrary, we are to be involved in the catastrophe. It is not left to us to stand aloof as mere spectators. We shall have to act a part. We may lose, but cannot gain. We furnish the stakes; and they are nothing less than the vital interests of our country. The gentleman from Massachusetts (Mr. OTIS) has been edifying in his suggestions as to what we are to fear from St. Domingo, unless we adopt his counsels. The mention of St. Domingo calls up a train of unpleasant recollections. Its history is replete with instructive lessons upon this subject. Let us alone, and we have nothing to fear. It is your pretended solicitude for our welfare that constitutes our danger. It is the doctor, and not the disease, we dread. Yes, sir, the pseudo friends of humanity, in France, far beyond the reach of the effects of their own policy, in the spirit of fanaticism, issued the celebrated decree that involved the fate of that devoted island. Its caption was "liberty and equality." It no sooner reached its object, than the bands of society were dissolved. Monsters stalked over the face of this wretched country, and their footsteps were

everywhere traced by conflagration, and rapine, and murder, and lust, and all the unutterable horrors which the most ferocious passions, coupled with unbridled power, could inflict. The few wretched survivors, who fled before the fury of the storm, carried to every part of Christendom their tale of suffering and of woe, which, by its irresistible pathos, drew tears of pity from every eye. But, where or when has it been known that fanaticism has paused to reflect on consequences? Experience, the lessons of prudence and of caution, are presented to it in vain. But, sir, let us analyze this argument of the gentleman from Massachusetts, if, indeed, argument it may be called. If, says he, you extend slavery to Missouri, the emissaries of St. Domingo will penetrate this interior region, and preach the doctrines of insurrection. Indeed! If, then, according to the logic of this gentleman, the slaves be retained in the Atlantic States, to which the access is the most easy, and swell to a disproportionate number, we have nothing to apprehend; but, if removed to the interior, and so diffused as to be entirely outnumbered by the white population, then, and not till then, are we in danger. Can any thing be necessary to refute a proposition, when to state it is to destroy it?

We have heard much of the moral and political effects of slavery. Instead of the picture furnished by theorists and enthusiasts on this subject, let us consult the testimony of history from the first to the present age. In the master States of antiquity, Greece and Rome, it existed in its worst form. And yet, such was the march of the human mind, in these distinguished Republics, in all that was ennobling in morals and science, that it continued to shine through the long eclipse of interposing darkness. And in the modern world the lamps of science and of liberty were lighted up from its yet unexpired embers. I will not pretend to retouch the picture delineated by the masterly hand of my distinguished friend from Maryland. His glowing and sublime eloquence, the exclusive companion of superior genius, lifted the curtain which separates us from past ages, and caused to pass in review the heroes of Marathon, Salamis, and Thermopylæ—splendid achievements, that lose nothing in comparison with all that has since intervened. If you descend to modern times, the result of experience in our own country is no less opposed to the suggestions of theory. I will not enter into the invidious task of contrasting the South with the North. How disastrous must be that question whose discussion permits a member of this body, in recounting the splendid monuments of American skill and bravery, to content himself with naming Bunker's Hill, Bennington, and Saratoga! Could not the gentleman from New Hampshire permit his national feelings to survive so long as to have recounted the Cowpens, King's Mountain, Guilford, Eutaw, York, and, finally, the victory of New Orleans, whose memory will live co-extensively with the flood on whose margin it was achieved? Why this invidious distinction? Does the honorable gentleman imagine I take less interest in indulging my pleasing recollection of the prowess of my country in the first than in the last? No, they were my countrymen; the fame they acquired was a common stock; my portion of the inheritage I will not surrender.

Let it not, however, be supposed, that in the abstract I am advocating slavery. Like all other human things, it is mixed with good and evil—the latter, no doubt, preponderating.

The gentleman from Massachusetts (Mr. MELLEN) tells us he is legislating for after ages. His view disdains the limited horizon of the present. Poor arrogant man, not content to act well his part in the little span assigned him by his Creator, he builds his mole-hill, and challenges immortality for his labors! A few revolving years, they are erased with the same facility as are the characters by the flood, on whose sandy margin they have been inscribed. Tell me at what pure fountain of knowledge have you drunk in the holy inspiration which enables you to penetrate the dark cloud which hangs on the future, and to adapt your counsels to the endless vicissitudes of human affairs? Satisfy me on this, before I surrender present happiness. I fear you have commenced this distant voyage under the most unhallowed auspices. You violate the constitution; you trample under feet the plighted faith of the nation; you do an immeasurable act of injustice to one-half of the nation; you lay the foundation of incurable hatred; and all this for consequences which none can see, but that Providence, in whose hands is the destiny of nations. Sir, reflections of this kind call up a fearful subject of contemplation. Your Government, upon its present scale, is as yet but an experiment. While the people are virtuous, it may equal all our fond hopes and anticipations; but when it shall reach from ocean to ocean, become populated to excess, and poverty and vice shall have shed their baneful influence; when materials of this kind shall be subjected to the intrigues of the wicked and ambitious; who, judging even from the present time, is sanguine enough to hope that we alone are to be exempt from the calamities to which man has been born heir? Who can pretend to predict that the present order of things will be able to ride out the storm? And if, conforming to all human things, we, too, shall experience adversity—if this last hope of afflicted humanity shall, as the precursor of its final doom, be rent in twain, what then will be the fruits of your policy? On this side the Mississippi a black population, on the other a white. The latter, you tell us, is feeble, inadequate to its own defence; we present only a temptation to conquest. Instead of presenting a rampart, you have surrendered us, by your policy, an unresisting prey to our now hostile neighbors. It may perhaps be consistent with retributive justice that, our country overrun, you in turn may severely feel the ter-

rible effects of your present injustice. Let me conjure the gentleman to return from his distant voyage, and unite with us in consulting the happiness of the present generation. Whether slavery was ordained by God himself in a particular revelation to his chosen people, or whether it be merely permitted as a part of that moral evil which seems to be the inevitable portion of man, are questions I will not approach: I leave them to the casuists and the divines. It is sufficient for us, as statesmen, to know that it has existed from the earliest ages of the world, and that to us has been assigned such a portion as, in reference to their number and the various considerations resulting from a change of their condition, no remedy, even plausible, has been suggested, though wisdom and benevolence united have unceasingly brooded over the subject.

However dark and inscrutable may be the ways of heaven, who is he that arrogantly presumes to arraign them? The same mighty power that planted the greater and the lesser luminary in the heavens, permits on earth the bondsman and the free. To that Providence, as men and Christians, let us bow. If it be consistent with his will, in the fulness of time, to break the fetter of the slave, he will raise up some Moses to be their deliverer. To him commission will be given to lead them up out of the land of bondage. At his approach, seas will subside and mountains disappear. When the revelation shall be made, and the jubilee of emancipation be proclaimed, philanthropy will lift its voice to swell the joyful note, which, sweeping the continent and the isles of the new world, and resounding through the old, shall cause the oppressor to let go his prey, the dungeon to surrender its victim, and give emancipation to the slave. Till then, let us draw consolation from the reflection that, however incomprehensible this dispensation may be to us, it is a link in that great concatenation which is permitted by omnipotent power and goodness, and must issue in universal good.

Mr. ROBERTS said: I rise, with unfeigned reluctance, to claim the indulgence of a further hearing from the Senate. I cannot, however, reconcile silence with what I deem to be a faithful discharge of duty. I have listened, with equal surprise and regret, to hear gentlemen, with whom in this place I have long been gratified to act and think, deny or explain away what I deem to be the sound and fundamental principles of political truth. The gentleman who has just preceded me (Mr. BARBOUR) has informed us there is much public excitement existing relative to this question. The same thing has frequently been alluded to by others speaking on the same side. They, one and all, anticipate the most fearful consequences, if the proposition before you be agreed to. We have been reminded of our unratified treaty with Spain, our embarrassed currency and deficient revenue, as reasons why we should forbear doing what we find to be right. I have no reverence for that wisdom which would decide questions of the highest order—questions interwoven in the very web of our destiny, by a reference to the transitory embarrassments which may beset us at any particular moment. The question has fairly met us, whether freedom or slavery is to be the lot of the regions beyond the Mississippi. It ought to be deliberately decided, under a proper exercise of authority, with a view to the ultimate consequences the decision we come to may produce. It is, now, as to Missouri only we are called upon to act; but it will yet arise in Arkansas and other territories, which, in the fulness of time, may offer themselves for admission into this Union.

The people to the South, says the gentleman just sat down, (Mr. BARBOUR,) who compose one-half of the Union, are to be put, by this proposition, under the ban of the empire, as, from its operation, they cannot settle in the new State. If he be correct, which I do not admit, reject the proposition, and you put the other and larger half under the ban. A man who is conscientiously averse to holding slaves, and who cannot, therefore, employ the slaves of others, is forbidden to settle in a land where free labor cannot be procured. Such must be the case where slavery exists unrestricted. Admit Missouri, a slaveholding State, without limitation, and you place the citizens of the non-slaveholding States under an interdict, as to settlement, that they cannot overcome. Thus is the argument brought to an equation. With this dilemma are we beset. The gentleman has pronounced an eloquent and just eulogium on those who, in doing what they believe to be right, breast the storm of public opinion at home. To gentlemen who act thus, I am ready to afford an equal tribute of applause. Where the gentleman finds the supple politicians, who yield so obsequiously to every breeze of public opinion from that quarter which affords him so consoling a contrast, I cannot so well conceive. In this part of his compliment I can take no share. I have been glad to learn the opinion of the Legislature of Pennsylvania accorded with signal unanimity. Having no doubt of my duty before, I still hail with gladness this strengthening evidence of their concurrence. With us, there can be no recognition of slavery as a matter of right. An abhorrence of it, on all principles but those of supreme necessity, is interwoven into the very texture of our hearts and habits of thought.

The gentleman from South Carolina (Mr. SMITH) has asked, why we did not propose this restriction earlier? In this at least I have not been wanting. My maiden voice was assayed, in the House of Representatives, in favor of the inhibition of slavery north of the parallel of latitude which passes through the mouth of the Ohio, in, I believe, 1811, when the bill establishing the present Territorial government was under consideration. We were not then told the proposition was unconstitutional, nor in violation of the treaty; but that we were on

the eve of a war, with almost one-half of the community infatuated with the spirit of opposition to the Government; that further dissension at that time might be fatal. The question was thus deferred until a more convenient season. What I then thought right, I think so now. I rejoice to see this question excite public interest. Melancholy would be our prospects, if it did not. It must be settled some time, and better now than later. The gentleman who has preceded me has spoken of intemperate doctrine brought into discussion in a Northern State Legislature. Where, let me ask, has any thing more intemperate appeared than in the resolutions of that of Virginia? Dictation to the Congress has been uttered there without qualification or reserve. The gentleman tells us he has heard, too, the language of reproach where he had hoped that of kindness. He has been good enough to read me a lecture on moderation; but, how has he observed his own precepts. He charges us, without qualification, of wishing to do an act of enormous injustice—to insult Virginia; and although she is disposed to submit to much insult and injustice, there is a point beyond which submission ceases to be a virtue. As to where the charge of inflicting reproaches, or the merit of extending kindnesses, may be most justly claimed, it is not for me, but those who hear us to decide. If it were a question, says the gentleman, whether or not we should multiply slaves, he should be as much against it as any man; but, he adds, it is not a question of this kind, but one which determines only if they shall be confined to the spot where they now are. We do soberly hold, that it is a question whether slavery shall be extended, and slaves increased. No art nor subtlety in the use of language can successfully be applied to make it appear otherwise. Establish slavery over this territory, and you, of consequence, increase the value of slave property. Extend the market, and you perpetuate this interest, by increasing the power of the holders of it. Reject this proposition, and to whose benefit does the consequence enure? clearly to the slaveholding interest, pecuniarily and politically The scale of political power will preponderate in favor of the slaveholding States. The effect of such an event is hardly problematical. While the gentleman tells us this is not a question of slavery, he tells us that all sovereignty possessed on this subject is in the States; and that, so far as power is not given to the Federal Government, or withheld from the States, they are despotic sovereignties. Despotic indeed, if they can transform freemen into slaves. We have heard from gentlemen, that the right of establishing slavery is a legitimate attribute of State sovereignty; that the States northwest of the Ohio may now constitutionally and lawfully introduce it, compact notwithstanding: that it was indulged under the Jewish theocracy, which was a government of God; that Christianity does not forbid it; that the constitution of this Government sanctions it, and recognizes the sovereginty of the State laws relating to it. Nay, more, the gentleman from South Carolina (Mr. SMITH) pronounces it right, views it as a benefit, and looks for its perpetuity. Without reserve, I deny that there is any power in a State to make slaves, or to introduce slavery where it has been abolished, or where it never existed, or even to permit its existence only as an evil admitting of no immediate remedy. The gentlemen have further alleged the ordinance of 1787 was in fraud of the articles of Confederation; that it was sheer assumption, and even downright usurpation. All this I must also deny, without reserve. The constitution provides that new States may be admitted into this Union, and that the United States shall gurantee to every State in this Union a republican form of government. To ascertain what is a *State* and a *republican form of government*, we shall very unprofitably follow gentlemen through the history of ancient times, the middle ages, or periods of modern date, as regarding foreign communities—even Britain herself. We must search for their meaning in our own history only; here a different system of political morality has prevailed, and political truth taught without corruption. In this reply I shall assume no new ground of defence; it will only be necessary to take that trodden before a little more closely—when it was declared, on the part of these States, that all men are created equal; that they are endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness; that to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed. Two conclusions most clearly result from these premises; that a Government founded on these principles neither make slaves nor kings. That is to put some, by birth, below, and some above the law. The exercise of creative power employed on one principle is just as reasonable as on the other.

In 1780, the Congress invited the States to cede their wilderness territory, from causes I need not revert to. It was then promised such territory should be formed into States, and admitted into the Union, with the same rights of sovereignty, freedom, and independence, as the original States. Can any one doubt that the freedom, sovereignty, and independence, here spoken of, meant the "boon of making slaves," as it is called. No; it most clearly results, that what of these rights the old States were held to possess were such only as recognize the inalienable rights of man, and which were conformable to the principle that government was instituted to secure those rights, not to effectuate their violation. When the Congress of 1784, and subsequently in 1787, came to apply these principles of sovereignty, freedom, and independence, to the Northwestern Territory, they evidently acted on such an understanding. The 6th article of compact is a proof too strong

of this to admit of denial, or even doubt. All the articles of compact are prefaced by the most unequivocal declaration by the Congress, that they contain the essential principles of the governments of the old States, and what they deemed the essential principles of all free governments; that is, in brief, republican government. We first find the phrases "Republican States," and Republican Government," used, in reference to new States, in the resolutions of Congress in 1780 and 1784, and in the ordinance of 1787, from whence the phrase has been transplanted into the constitution. A new State admitted into the Union, therefore, must be a State with a republican government. Though gentlemen have looked abroad to define this phrase, to get at a conveniently enlarged definition, it follows, most clearly, that it stands in the constitution an insuperable interdict to slave-making.

We have been told, as before remarked, that the ordinance of 1787 was an act of usurpation. The Congress, under the Confederation, had the power of making treaties. The States were not forbidden under that Government, to cede territory to the United States. The parties to the cession of the Northwestern Territory were parties competent to treat. The Congress became vested, by virtue of their several cessions, with all the powers the States had over the ceded territory, excepting so far as the stipulations abridged that power. These stipulations provided that the said territory should be formed into States, and admitted into the Union. Nine States were competent to admit new members. The ordinance of 1787 was virtually an admission of States into the Union. This vote of admission was unanimous. The ordinance was supervised by Virginia—first by her delegates in the Congress, and next by her Legislature, who, at the desire of Congress, modified the terms of cession. It is thus impossible there could have been any doubt, on the part of either of the contracting parties, as to the meaning of what was termed the same rights of freedom, sovereignty, and independence, as to the original States, as well as to the power of the Congress to prescribe terms of admission.

The Congress have now the power over the Territory of Missouri it has had over that northwest of the Ohio, restricted alike by the treaty of cession. That treaty certainly does not require the unrestricted introduction of slaves. We admit it guarantees the property in those that now exist. We therefore hold Congress to be as free to require of the new State to inhibit their further introduction, as they were formerly to forbid the existence of slavery in the States northwest of the Ohio.

To show that slavery is fruitful of elevation of national character, the achievements of Thermopylæ, Marathon, Salamis, and Platæa, have been instanced. Say, was Grecian prowess less in the Ten Thousand, and at Arbela? Men will encounter much for their liberty; they will sometimes perform bold deeds in pursuit of mere glory, or through attachment to a leader. Generally, I admit that great actions are the result of strong moral motives. I should rather ascribe the memorable exploits of the ancient republics to the free principles of their government, than to the existence of slavery, which seems at last to have been their bane.

In depicting the effects of the very limited proposition before you, gentlemen have indulged in the most extravagant figures of language. On the one hand, they have drawn Missouri in chains prostrate at your feet, the limbs of her sovereignty mangled by a sort of political surgery, with a brand on her face, and the collar of servitude about, and your feet upon, her neck; the victim of the most odious reproach, with her spirit broken; a State squeezed to a pigmy, and made the shadow of a shade, and the scorn of every tongue. We are next warned to beware of awakening the sturdy spirit of Missouri; she is, it is said, snuffing oppression in every breeze. We are called upon to look at her, filled with a mighty population, dissatisfied and rebellious; to sow not such seeds, lest we reap a lamentable harvest. Really, like the gentleman from Maryland, I want intellect to comprehend the force of such reasoning, if it be to be called by so sober a name. To what desperate acts of folly must this compassionating and anon terrifying style of address lead, if it be allowed to have any effect. In the midst of the tumult of the passions of fear and pity, reason and a sense of right can hardly fail to be obliterated. Is it, exclaims the gentleman from Maryland, (Mr. PINKNEY,) that you wish to force manumission on the South? I answer, not at all. It is to do nothing more nor less than to prevent, as far as possible, the extension of slavery.

Gentlemen have taken much offence at the pamphlets which have been published, reasoning against the extension of slavery in Missouri. Why this disturbance? We have not relied on them, nor plead them in the argument. I am aware it has been broadly intimated that we have found it cut and dried to our hand. If it were even so, it is still argument, and gentlemen must meet it for what it is worth. We claim no merit further than that of doing what we find to be right in the best way we can, and the plain course for gentlemen is, after meeting us here, if they be disturbed by what is said elsewhere, to sit down in their closets and refute these offensive publications. I should be pleased to find them at such a work. It would be fairly to enter the lists with the pamphleteers, and to oppose Pharsalia to Pharsalia. Perhaps, however, these officious authors will be sufficiently noticed in gentlemen's speeches. The gentleman from Maryland says, if slavery be incompatible with republican Government, that State must retire from the Union, perhaps, for her sins. In some States, says he, a quantum of property is necessary to the enjoyment of the elective franchise, and that the white

man who has it not is as much disfranchised as the slave of the South. How strange an assertion! Is the white man under the control of a master whom he has not chosen, liable to punishment at his will, bound to labor for his exclusive benefit, and to receive his pittance of food and raiment from the hand and at the discretion of him who holds him in bondage? To hear observations so vague and unreasonable may be matter of surprise, but hardly fit subject for reply. The government of slaves, we are told, is a patriarchal one, and that, in nine cases out of ten, the slaves which may be taken to Missouri will go with their masters. At least, then, in one case out of ten, they will be taken there manacled, under the lash of the driver, who holds them in no other estimation than as property—the creature of municipal law. I have witnessed such exhibitions from the windows of this Capitol. But more. Though in persons so degraded the severance of the ties of husband and wife may be less painful to the sufferers than if the parties were of free condition, but ties of maternal fondness are governed by other laws. Nor can it be necessary to paint to your imagination the distress that a severance of these ties by violence must awaken.

Slaves, says the gentleman from South Carolina, (Mr. SMITH,) are the happiest poor people in the world, and the gentleman from Virginia (Mr. BARBOUR) tells us the parting of a slave from his master is not like parting the hired man from his employer. I have had occasions to listen before now to comparisons drawn by Southern gentlemen between the laborer of the North and the Southern slave. In ordinary cases such a parallel could hardly justify a reply. The white laborer is always a free man, generally an honest man; often an intelligent and informed man. He knows his rights, and understands his duties. Free laborers, who are housekeepers, are seldom without their newspapers and means of information. These channels of intelligence are everywhere established with us. It is a successful business to the publishers almost always. Can there be a stronger evidence of a reading people? The relation between laborer and employer, where the latter is a free man, is that of equals. Each looks to the other for the fulfilment of the covenant between them. They often stand in the relation of friends. Their intercourse is almost always respectful and courteous. I have been forcibly struck with how equal a share of happiness, to say the least, was enjoyed by the man of opulence and the cottager in the Northern States. The later, being of good conduct, always has the boon of substantial freedom, and can hardly want the comforts of life, while the cares and anxieties of the former seem proportioned to his desire of increasing his wealth. Under any aspect, however, there can be no just resemblance, nor any comparison of advantages, common to the freeman and slave. I must beg leave to correct the gentleman from South Carolina, (Mr. SMITH,) when he says that the Colonization Society was formed to rid the non-slaveholding States of their free people of color. The associated friends of African emancipation in those States have explicitly published to the world, they consider the project as having originated in the South; that its object is the perpetuation of slavery; and that they can neither participate in it, nor countenance it.

When gentlemen claim for Missouri this boon of slavery, as it has been called, and paint its advantages, and plead for its legality, let them look at its origin. Whence have they derived their claims as owners and masters? From the violence of savage warfare; from the frauds and crimes of the man-stealer. Here is the foundation of their pretensions. What was originally wrong can never become right, while there is a living subject to suffer. While I most readily admit, a sudden and general emancipation in a large portion of this Union would be the frenzy of madness, I hold it the incumbent duty of all to believe it desirable, and to look and hope for its consummation in the fulness of God's providence.

No other gentleman rising to speak, the question was taken on the restrictive amendment offered by Mr. ROBERTS, which is in the following words: "Provided, also, that the further introduction into the said State of persons to be held in slavery or involuntary servitude within the same, shall be absolutely and irrevocably prohibited;" and decided in the negative, by yeas and nays, as follows:

YEAS.—Messrs. Burrill, Dana, Dickerson, King of New York, Lowrie, Mellen, Morrill, Noble, Otis, Roberts, Ruggles, Sanford, Taylor, Tichenor, Trimble, and Wilson—16.

NAYS.—Messrs. Barbour, Brown, Eaton, Edwards, Elliot, Gaillard, Hunter, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Lanman, Leake, Lloyd, Logan, Macon, Palmer, Parrott, Pinkney, Pleasants, Smith, Stokes, Thomas, Van Dyke, Walker of Alabama, Walker of Georgia, Williams of Mississippi, and Williams of Tennessee—27.

THURSDAY, February 3.

Ohio Resolutions against the existence of Slavery in the Territories or New States.

Mr. RUGGLES communicated the following resolutions of the State of Ohio, which were read:

"Whereas the existence of slavery in our country must be considered a national calamity, as well as a great moral and political evil; and whereas the admission of slavery within the new States or Territories of the United States is fraught with the most pernicious consequences, and calculated to endanger the peace and prosperity of our country; therefore,

Resolved, That our Senators and Representatives in Congress be requested to use their utmost exertions to prevent the admission or introduction of slavery into any of the Territories of the United States, or any new State that may hereafter be admitted into the Union."

The Compromise Proposed.

Mr. THOMAS, of Illinois, submitted the following additional section, as an amendment to the Missouri bill, (which, it was proposed, by a report of the Judiciary Committee, to incorporate with the Maine bill,) viz:

"*And be it further enacted*, That in all that tract of country ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, excepting only such part thereof as is included within the limits of the State contemplated by this act, there shall be neither slavery nor involuntary servitude, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: *Provided always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any State or Territory of the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid."

The amendment having been read, the further consideration of the subject was, on motion of Mr. THOMAS, postponed to Monday next.

FRIDAY, February 11.

Restriction on the State of Missouri.

The Senate resumed the consideration of the Maine bill, and the amendment reported thereto by the Judiciary Committee, (adding provisions for the formation of a State government in Missouri.)

Mr. KING, of New York, agreeably to the intimation which he gave on Wednesday, rose and addressed the Senate about two hours, in support of the right and expediency of restricting the contemplated State of Missouri from permitting slavery therein; and then, on motion of Mr. SMITH, the subject was postponed to Monday; to which day the Senate adjourned.

TUESDAY, February 15.

Restriction on the State of Missouri.

Mr. PINKNEY, of Maryland, rose and addressed the Senate nearly three hours against the restriction, and in reply to the remarks of Mr. KING, of New York. His speech is as follows:*

Mr. President: As I am not a very frequent speaker in this Assembly, and have shown a desire, I trust, rather to listen to the wisdom of others than to lay claim to superior knowledge by undertaking to advise, even when advice, by being seasonable in point of time, might have some chance of being profitable, you will, perhaps, bear with me if I venture to trouble you once more on that eternal subject which has lingered here, until all its natural interest is exhausted, and every topic connected with it is literally worn to tatters. I shall, I assure you, sir, speak with laudable brevity—not merely on account of the feeble state of my health, and from some reverence for the laws of good taste which forbid me to speak otherwise, but also from a sense of justice to those who honor me with their attention. My single purpose, as I suggested yesterday, is to subject to a friendly, yet close examination, some portions of a speech, imposing certainly on account of the distinguished quarter from whence it came—not *very* imposing, if I may so say, without departing from that respect which I sincerely feel and intend to manifest for eminent abilities and long experience, for any *other* reason.

I believe, Mr. President, that I am about as likely to retract an opinion which I have formed as any member of this body, who, being a lover of truth, inquires after it with diligence before he imagines that he has found it; but I suspect that we are all of us so constituted as that neither argument nor declamation, levelled against recorded and published decision, can easily discover a practicable avenue through which he may hope to reach either our heads or our hearts. I mention this lest it may excite surprise, when I take the liberty to add, that the speech of the honorable gentleman from New York, upon the great subject with which it was principally occupied, has left me as great an infidel as it found me. It is possible, indeed, that if I had had the good fortune to hear that speech at an earlier stage of this debate, when all was fresh and new, although I feel confident that the analysis which it contained of the constitution, illustrated as it was by historical anecdote rather than by reasoning, would have been just as unsatisfactory to me then as it is now, I might not have been altogether unmoved by those warnings of approaching evil which it seemed to intimate, especially when taken in connection with the observations of the same honorable gentleman on a preceding day, "that delays in disposing of this subject in the manner he desires are dangerous, and that we stand on slippery ground." I must be permitted, however, (speaking only for myself,) to say that the hour of dismay is passed. I have heard the tones of the larum bell on all sides, until they have become familiar to my ear, and have lost their power to appal, if, indeed, they ever possessed it. Notwithstanding occasional appearances of rather an unfavorable description, I have long since persuaded myself that the Missouri question, as it is called, might be laid to rest, with innocence and safety, by some conciliatory compromise at least, by which, as is our duty, we might reconcile the extremes of views and feelings, without any sacrifice of constitutional principle; and in any event, that the Union would easily and triumphantly emerge from those portentous clouds with which this controversy is supposed to have environed it.

I confess to you, nevertheless, that some of the principles announced by the honorable gentleman from New York, (Mr. KING,) with an explicitness that reflected the highest credit on his candor, did, when they were first presented, startle me not a little. They were not, perhaps,

* Mr. Pinkney spoke twice on this subject—once to the restriction itself, before Mr. King took his seat, and now in reply to Mr. King. The first speech of Mr. Pinkney was not reported, nor has that of Mr. King been to which he replied.

entirely new. Perhaps I had seen them before in some shadowy and doubtful shape,

> If shape it might be called, that shape had none
> Distinguishable in member, joint, or limb.

But in the honorable gentleman's speech they were shadowy and doubtful no longer. He exhibited them in forms so boldly and accurately defined, with contours so distinctly traced, with features so pronounced and striking, that I was unconscious for a moment that they might be old acquaintances. I received them as *novi hospites* within these walls, and gazed upon them with astonishment and alarm. I have recovered, however, thank God, from this paroxysm of terror, although not from that of astonishment. I have sought and found tranquillity and courage in my former consolatory faith. My reliance is that these principles will obtain no general currency; for, if they should, it requires no gloomy imagination to sadden the perspective of the future. My reliance is upon the unsophisticated good sense and noble spirit of the American people. I have what I may be allowed to call a proud and patriotic trust, that they will give countenance to no principles which, if followed out to their obvious consequences, will not only shake the goodly fabric of the Union to its foundation, but reduce it to a melancholy ruin. The people of this country, if I do not wholly mistake their character, are wise as well as virtuous. They know the value of that Federal association which is to them the single pledge and guarantee of power and peace. Their warm and pious affections will cling to it as to their only hope of prosperity and happiness, in defiance of pernicious abstractions, by whomsoever inculcated, or howsoever seductive and alluring in their aspect.

Sir, it is not an occasion like this, although connected, as contrary to all reasonable expectation it has been, with fearful and disorganizing theories, which would make our estimates, whether fanciful or sound, of natural law, the measure of civil rights and political sovereignty in the social state, that can harm the Union. It must indeed be a mighty storm that can push from its moorings this sacred bark of the common safety. It is not every trifling breeze, however it may be made to sob and howl in imitation of the tempest, by the auxiliary breath of the ambitious, the timid, or the discontented, that can drive this gallant vessel, freighted with every thing that is dear to an American bosom, upon the rocks, or lay it a sheer hulk upon the ocean. I may, perhaps, mistake the flattering suggestions of hope, (the greatest of all flatterers, as we are told,) for the conclusions of sober reason. Yet it is a pleasing error, if it be an error, and no man shall take it from me. I will continue to cherish the belief, in defiance of the public patronage given by the honorable gentleman from New York, with more than his ordinary zeal and solemnity, to deadly speculations which, invoking the name of God to aid their faculties for mischief, strike at all establishments, that the union of these States is formed to bear up against far greater shocks than, through all vicissitudes, it is ever likely to encounter. I will continue to cherish the belief that, although like all other human institutions, it may for a season be disturbed, or suffer momentary eclipse by the transit across its disk of some malignant planet, it possesses a recuperative force, a redeeming energy in the hearts of the people, that will soon restore it to its wonted calm, and give it back its accustomed splendor. On such a subject I will discard all hysterical apprehensions, I will deal in no sinister auguries, I will indulge in no hypochondriacal forebodings. I will look forward to the future with gay and cheerful hope; and I will make the prospect smile, in fancy at least, until overwhelming reality shall render it no longer possible.

I have said thus much, sir, in order that I may be understood as meeting the constitutional question as a mere question of interpretation, and as disdaining to press into the service of my argument upon it prophetic fears of any sort, however they may be countenanced by an avowal, formidable by reason of the high reputation of the individual by whom it has been hazarded, of sentiments the most destructive, which, if not borrowed from, are identical with, the worst visions of the political philosophy of France when all the elements of discord and misrule were let loose upon that devoted nation. I mean "the infinite perfectibility of man and his institutions," and the resolution of every thing into a state of nature. I have another motive which, at the risk of being misconstrued, I will declare without reserve. With my convictions, and with my feelings, I never will consent to hold confederated America as bound together by a silken cord, which any instrument of mischief may sever, to the view of monarchical foreigners, who look with a jealous eye upon that glorious experiment which is now in progress amongst us in favor of republican freedom. Let them make such prophecies as they will, and nourish such feelings as they may: I will not contribute to the fulfilment of the former, nor minister to the gratification of the latter.

Sir, it was but the other day that we were forbidden (properly forbidden, I am sure, for prohibition came from you) to assume that there existed any intention to impose a prospective restraint on the domestic legislation of Missouri —a restraint to act upon it contemporaneously with its origin as a State, and to continue adhesive to it through all the stages of its political existence. We are now, however, permitted to know that it is determined by a sort of political surgery to amputate one of the limbs of its local sovereignty, and thus mangled and disparaged, and thus only, to receive it into the bosom of the constitution. It is now avowed, that while Maine is to be ushered into the Union with every possible demonstration of studious reverence on our part, and on hers with colors flying, and all the other graceful accompaniments of honorable

triumph, this ill-conditioned upstart of the West, this obscure foundling of a wilderness that was but yesterday the hunting-ground of the savage, is to find her way into the American family as she can, with a humiliating badge of remediless inferiority patched upon her garments, with the mark of recent qualified manumission upon her, or rather with a brand upon her forehead to tell the story of her territorial vassalage, and to perpetuate the memory of her evil propensities. It is now avowed that, while the robust District of Maine is to be seated by the side of her truly respectable parent, co-ordinate in authority and honor, and is to be dandled into that power and dignity of which she does not stand in need, but which undoubtedly she deserves, the more infantine and feeble Missouri is to be repelled with harshness, and forbidden to come at all, unless with the iron collar of servitude about her neck, instead of the civic crown of republican freedom upon her brows, and is to be doomed forever to leading strings, unless she will exchange those leading strings for shackles.

I am told that you have the power to establish this odious and revolting distinction, and I am referred for the proofs of that power to various parts of the constitution, but principally to that part of it which authorizes the admission of new States into the Union. I am myself of opinion that it is in that part only that the advocates for this restriction can, with any hope of success, apply for a license to oppose it, and that the efforts which have been made to find it in other portions of that instrument, are too desperate to require to be encountered. I shall, however, examine those other portions before I have done, lest it should be supposed by those who have relied upon them, that what I omit to answer I believe to be unanswerable.

The clause of the constitution which relates to the admission of new States is in these words: "The Congress may admit new States into this Union," &c., and the advocates for restriction maintain that the use of the word "may" imports discretion to admit or to reject; and that in this discretion is wrapped up another—that of prescribing the terms and conditions of admission in case you are willing to admit *Cujus est dare ejus est disponere.* I will not for the present inquire whether this involved discretion to dictate the terms of admission belongs to you or not. It is fit that I should first look to the nature and extent of it.

I think I may assume that if such a power be any thing but nominal, it is much more than adequate to the present object; that it is a power of vast expansion, to which human sagacity can assign no reasonable limits; that is a capacious reservoir of authority, from which you may take, in all time to come, as occasion may serve, the means of oppression as well as of benefaction. I know that it professes at this moment to be the chosen instrument of protecting mercy, and would win upon us by its benignant smiles; but I know, too, it can frown and play the tyrant, if it be so disposed. Notwithstanding the softness which it now assumes, and the care with which it conceals its giant proportions beneath the deceitful drapery of sentiment, when it next appears before you it may show itself with a sterner countenance and in more awful dimensions. It is, to speak the truth, sir, a power of colossal size; if, indeed, it be not an abuse of language to call it by the gentle name of *a power.* Sir, it is a wilderness of powers, of which fancy, in her happiest mood, is unable to perceive the far distant and shadowy boundary. Armed with such a power, with religion in one hand and philanthropy in the other, and followed with a goodly train of public and private virtues, you may achieve more conquests over sovereignties, not your own, than falls to the common lot of even uncommon ambition. By the aid of such a power, skilfully employed, you may "bridge your way" over the Hellespont that separates State legislation from that of Congress; and you may do so for pretty much the same purpose with which Xerxes once bridged his way across the Hellespont, that separates Asia from Europe. He did so, in the language of Milton, "the liberties of Greece to yoke." You may do so for the analogous purpose of subjugating and reducing the sovereignties of States, as your taste or convenience may suggest, and fashioning them to your imperial will. There are those in this House who appear to think, and I doubt not sincerely, that the particular restraint now under consideration is wise, and benevolent, and good: wise as respects the Union, good as respects Missouri, benevolent as respects the unhappy victims whom, with a novel kindness, it would incarcerate in the South, and bless by decay and extirpation. Let all such beware, lest in their desire for the effect which they believe the restrictions will produce, they are too easily satisfied that they have the right to impose it. The moral beauty of the present purpose, or even its political recommendations, (whatever they may be,) can do nothing for a power like this, which claims to prescribe conditions *ad libitum*, and to be competent to this purpose, because it is competent to all. This restriction, if it be not smothered in its birth, will be but a small part of the progeny of that prolific power. It teems with a mighty brood, of which this may be entitled to the distinction of comeliness as well as of primogeniture. The rest may want the boasted loveliness of their predecessor, and be even uglier than "Lapland witches."

Perhaps, sir, you will permit me to remind you that it is almost always in company with those considerations that interest the heart in some way or other, that encroachment steals into the world. A bad purpose throws no veil over the licenses of power. It leaves them to be seen as they are. It affords them no protection from the inquiring eye of jealousy. The danger is, when a tremendous discretion like the present is attempted to be assumed, as on this occasion, in the names of pity, of religion,

of national honor, and national prosperity; when encroachment tricks itself out in the robes of piety or humanity, or addresses itself to pride of country, with all its kindred passions and motives. It is then that the guardians of the constitution are apt to slumber on their watch, or, if awake, to mistake for lawful rule some pernicious arrogation of power.

I would not discourage authorized legislation upon those kindly, generous, and noble feelings which Providence has given to us for the best of purposes; but when *power to act* is under discussion, I will not look to the end in view, lest I should become indifferent to the lawfulness of the means. Let us discard from this high constitutional question all those extrinsic considerations which have been forced into its discussion. Let us endeavor to approach it with a philosophic impartiality of temper, with a sincere desire to ascertain the boundaries of our authority, and a determination to keep our wishes in subjection to our allegiance to the constitution.

Slavery, we are told in many a pamphlet, memorial, and speech, with which the press has lately groaned, is a foul blot upon our otherwise immaculate reputation. Let this be conceded —yet you are no nearer than before to the conclusion that you possess power which may deal with other subjects as effectually as with this. Slavery, we are further told, with some pomp of metaphor, is a canker at the root of all that is excellent in this republican empire, a pestilent disease that is snatching the youthful bloom from its cheek, prostrating its honor and withering its strength. Be it so—yet if you have power to medicine to it in the way proposed, and in virtue of the diploma which you claim, you have also power in the distribution of your political alexipharmics to present the deadliest drugs to every Territory that would become a State, and bid it drink or remain a colony forever. Slavery, we are also told, is now "rolling onward with a rapid tide towards the boundless regions of the West," threatening to doom them to sterility and sorrow, unless some potent voice can say to it, thus far shalt thou go and no farther. Slavery engenders pride and indolence in him who commands, and inflicts intellectual and moral degradation on him who serves. Slavery, in fine, is unchristian and abominable. Sir, I shall not stop to deny that slavery is all this and more; but I shall not think myself the less authorized to deny that it is for you to stay the course of this dark torrent, by opposing to it a mound raised up by the labors of this portentous discretion on the domain of others; a mound which you cannot erect but through the instrumentality of a trespass of no ordinary kind—not the comparatively innocent trespass that beats down a few blades of grass which the first kind sun or the next refreshing shower may cause to spring again—but that which levels with the ground the lordliest trees of the forest, and claims immortality for the destruction which it inflicts.

I shall not, I am sure, be told that I exaggerate this power. It has been admitted here and elsewhere that I do not. But I want no such concession. It is manifest that, as a discretionary power, it is every thing or nothing; that its head is in the clouds, or that it is a mere figment of enthusiastic speculation; that it has no existence, or that it is an alarming vortex ready to swallow up all such portions of the sovereignty of an infant State as you may think fit to cast into it as preparatory to the introduction into the Union of the miserable residue. No man can contradict me when I say that, if you have this power, you may squeeze down a newborn sovereign State to the size of a pigmy, and then taking it between finger and thumb, stuck it into some niche of the Union, and still continue, by way of mockery, to call it a State in the sense of the constitution. You may waste it to a shadow, and then introduce it into the society of flesh and blood, an object of scorn and derision. You may sweat and reduce it to a thing of skin and bone, and then place the ominous skeleton beside the ruddy and healthful members of the Union, that it may have leisure to mourn the lamentable difference between itself and its companions, to brood over its disastrous promotion, and to seek, in justifiable discontent, an opportunity for separation, and insurrection, and rebellion. What may you not do by dexterity and perseverance with this terrific power? You may give to a new State, in the form of terms which it cannot refuse, (as I shall show you hereafter,) a statute book of a thousand volumes, providing not for ordinary cases only, but even for possibilities; you may lay the yoke, no matter whether light or heavy, upon the necks of the latest posterity; you may send this searching power into every hamlet for centuries to come, by laws enacted in the spirit of prophecy, and regulating all those dear relations of domestic concern which belong to local legislation, and which even local legislation touches with a delicate and sparing hand. This is the first inroad. But will it be the last? This provision is but a pioneer for others of a more desolating aspect. It is that fatal bridge of which Milton speaks, and when once firmly built, what shall hinder you to pass it when you please for the purpose of plundering power after power, at the expense of new States, as you will still continue to call them, and raising up prospective codes irrevocable and immortal, which shall leave to those States the empty shadows of domestic sovereignty, and convert them into petty pageants, in themselves contemptible, but rendered infinitely more so by the contrast of their humble faculties with the proud and admitted pretensions of those who, having doomed them to the inferiority of vassals, have condescended to take them into their society and under their protection?

I shall be told, perhaps, that you can have no temptation to do all or any part of this, and, moreover, that you can do nothing of yourselves, or, in other words, without the concur-

rence of the new State. The last of these suggestions I shall examine by and by. To the first, I answer that it is not incumbent upon me to prove that this discretion will be abused. It is enough for me to prove the vastness of the power as an inducement to make us pause upon it, and to inquire with attention whether there is any apartment in the constitution large enough to give it entertainment. It is more than enough for me to show that vast as is this power, it is with reference to mere Territories an irresponsible power. Power is irresponsible when it acts upon those who are defenceless against it; who cannot check it, or contribute to check it in its exercise; who can resist it only by force. The Territory of Missouri has no check upon this power. It has no share in the government of the Union. In this body it has no representative. In the other House it has, by courtesy, an agent, who may remonstrate, but cannot vote. That such an irresponsible power is not likely to be abused, who will undertake to assert? If it is not, "experience is a cheat, and fact a liar." The power which England claimed over the colonies was such a power, and it was abused; and hence the Revolution. Such a power is always perilous to those who wield it, as well as to those on whom it is exerted. Oppression is but another name for irresponsible power, if history is to be trusted.

The free spirit of our constitution and of our people is no assurance against the propension of unbridled power to abuse, when it acts upon colonial dependents rather than upon ourselves. Free States, as well as despots, have oppressed those whom they were bound to foster; and it is the nature of man that it should be so. The love of power and the desire to display it when it can be done with impunity, is inherent in the human heart. Turn it out at the door, and it will in again at the window. Power is displayed in its fullest measure, and with a captivating dignity, by restraints and conditions. The *pruritas leges ferendi* is a universal disease, and conditions are laws as far as they go. The vanity of human wisdom, and the presumption of human reason, are proverbial. This vanity and this presumption are often neither reasonable nor wise. Humanity, too, sometimes plays fantastic tricks with power. Time, moreover, is fruitful in temptations to convert discretionary power to all sorts of purposes.

Time, that withers the strength of man, and "strews around him, like autumnal leaves, the ruins of his proudest monuments," produces great vicissitudes in modes of thinking and feeling. It brings along with it, in its progress, new circumstances, new combinations and modifications of the old, generating new views, motives, and caprices, new fanaticisms of endless variety—in short, new every thing. We ourselves are always changing—and what to-day we have but a small desire to attempt, to-morrow becomes the object of our passionate aspirations.

There is such a thing as enthusiasm, moral, religious, or political, or a compound of all three; and it is wonderful what it will attempt, and from what imperceptible beginnings it sometimes rises into a mighty agent. Rising from some obscure or unknown source, it first shows itself a petty rivulet, which scarcely murmurs over the pebbles that obstruct its way; then it swells into a fierce torrent, bearing all before it; and again, like some mountain stream which occasional rains have precipitated upon the valley, it sinks once more into a rivulet, and finally leaves its channel dry. Such a thing has happened. I do not say that it is now happening. It would not become me to say so. But, if it should occur, woe to the unlucky Territory that should be struggling to make its way into the Union at the moment when the opposing inundation was at its height, and at the same instant this wide Mediterranean of discretionary powers, which it seems is ours, should open up all its sluices, and with a consentaneous rush, mingle with the turbid waters of the others! * * * * *

"New States *may* be admitted by the Congress into this Union." It is objected that the word "may" imports power, not obligation—a right to decide—a discretion to grant or refuse.

To this it might be answered, that *power* is *duty*, on many occasions. But let it be conceded that it is discretionary. What consequence follows? A power to refuse, in a case like this, does not necessarily involve a power to exact terms. You must look to the *result*, which is the declared object of the power. Whether you will arrive at it or not may depend on your will; but you cannot compromise with the result intended and professed.

What, then, is the professed result? To admit a State into this Union.

What is that Union? A confederation of States equal in sovereignty, capable of every thing which the constitution does not forbid, or authorize Congress to forbid. It is an equal Union between parties equally sovereign. They were sovereign, independently of the Union. The object of the Union was common protection for the exercise of already existing sovereignty. The parties gave up a portion of that sovereignty to insure the remainder. As far as they gave it up by the common compact they have ceased to be sovereign. The Union provides the means of defending the residue, and it is into that Union that a new State is to come. By acceding to it the new State is placed on the same footing with the original States. It accedes for the same purpose; that is, protection for its unsurrendered sovereignty. If it comes in shorn of its beams—crippled and disparaged beyond the original States—it is not into the original Union that it comes. For it is a different sort of Union. The first was Union *inter pares:* this is a Union between *disparates*, between giants and a dwarf, between power and feebleness, between full proportioned sovereignties and a miserable image of power—a

thing which that very Union has shrunk and shrivelled from its just size, instead of preserving it in its true dimensions.

It is into "this Union"—that is, the Union of the Federal Constitution—that you are to admit or refuse to admit. You can admit into no other. You cannot make the Union, as to the new State, what it is not as to the old; for then it is not *this Union* that you open for the entrance of a new party. If you make it enter into a new and additional compact, is it any longer the same Union?

We are told that, admitting a State into the Union is a compact. Yes; but what sort of a compact? A compact that it shall be a member of the Union, as the constitution has made it. You cannot new fashion it. You may make a compact to admit, but when admitted the original compact prevails. The Union is a compact, with a provision of political power and agents for the accomplishment of its objects. Vary that compact as to a new State; give new energy to that political power so as to make it act with more force upon a new State than upon the old; make the will of those agents more effectually the arbiter of the fate of a new State than of the old, and it may be confidently said that the new State has not entered into this Union, but into another Union. How far the Union has been varied is another question. But that it has been varied is clear.

If I am told that, by the bill relative to Missouri, you do not legislate upon a new State, I answer that you do; and I answer further, that it is immaterial whether you do or not. But it is upon Missouri, as a State, that your terms and conditions are to act. Until Missouri is a State, the terms and conditions are nothing. You legislate in the shape of terms and conditions prospectively; and you so legislate upon it, that when it comes into the Union it is bound by a contract degrading and diminishing its sovereignty, and is to be stripped of rights which the original parties to the Union did not consent to abandon, and which that Union (so far as depends upon it) takes under its protection and guarantee.

Is the right to hold slaves a right which Massachusetts enjoys? If it is, Massachusetts is under this Union in a different character from Missouri. The compact of the Union for it is different from the same compact of Union for Missouri. The power of Congress is different—every thing which depends upon the Union is, in that respect, different.

But it is immaterial whether you legislate for Missouri as a State or not. The effect of your legislation is to bring it into the Union with a portion of its sovereignty taken away.

But it is a *State* which you are to admit. What is a State in the sense of the constitution? It is not a State in the general, but a State as you find in the constitution. A State, generally, is a body politic or independent political society of men. But the State which you are to admit must be more or less than this political entity. What must it be? Ask the constitution. It shows what it means by a State by reference to the parties to it. It must be such a State as Massachusetts, Virginia, and the other members of the American confederacy—a State with full sovereignty, except as the constitution restricts it.

It is said that the word *may* necessarily implies the right of prescribing the terms of admission. Those who maintain this are aware that there are no express words, (such as, upon such terms and conditions as Congress *shall* think fit,) words which it was natural to expect to find in the constitution, if the effect contended for were meant. They put it, therefore, on the word *may*, and on that alone.

Give to that word all the force you please, what does it import? That Congress is not *bound* to admit a new State into this Union. Be it so for argument's sake. Does it follow that when you consent to admit into this Union a new State you can make it less in sovereign power than the original parties to that Union; that you can make the Union as to it what it is not as to them; that you can fashion it to your liking by compelling it to purchase admission into a Union by sacrificing a portion of that power which it is the sole purpose of the Union to maintain in all the plenitude which the Union itself does not impair? Does it follow that you can force upon it an additional compact not found in the compact of Union; that you can make it come into the Union less a State, in regard to sovereign power, than its fellows in that Union; that you can cripple its legislative competency (beyond the constitution which is the pact of Union, to which you make it a party as if it had been originally a party to it) by what you choose to call a *condition*, but which, whatever it may be called, brings the new government into the Union under new obligations to it, and with disparaged power to be protected by it?

In a word, the whole amount of the argument on the other side is, that you may refuse to admit a new State, and that therefore if you admit, you may prescribe the terms.

The answer to that argument is, that even if you can refuse, you can prescribe no terms which are inconsistent with the act you are to do. You can prescribe no conditions which, if carried into effect, would make the new State less a sovereign State than, under the Union as it stands, it would be. You can prescribe no terms which will make the compact of Union between it and the original States essentially different from that compact among the original States. You may admit, or refuse to admit; but if you admit, you must admit a State in the sense of the constitution—a State with all such sovereignty as belongs to the original parties; and it must be into *this Union* that you are to admit it, not into a Union of your own dictating, formed out of the existing Union by qualifications and new compacts, altering its charter and effect, and making it fall short of its pro-

tecting energy in reference to the new State, whilst it requires an energy of another sort—the energy of restraint and destruction.

I have thus endeavored to show that even if you have a discretion to refuse to admit, you have no discretion, if you are willing to admit, to insist upon any terms that impair the sovereignty of the admitted State as it would otherwise stand in the Union by the constitution which receives it into its bosom. To admit or not is for you to decide. Admission once conceded, it follows as a corollary that you must take the new State as an equal companion with its fellows; that you cannot recast or new-model the Union *pro hac vice;* but that you must receive it into the actual Union, and recognize it as a parcener in the common inheritance, without any other shackles than the rest have, by the constitution, submitted to bear, without any other extinction of power than is the work of the constitution acting indifferently upon all.

I may be told, perhaps, that the restriction, in this case, is the act of Missouri itself; that your law is nothing without its consent, and derives its efficacy from that alone. I shall have a more suitable occasion to speak on this topic hereafter, when I come to consider the treaty which ceded Louisiana to the United States. But I will say a few words upon it now, of a more general application than it will in that branch of the argument be necessary to use.

A Territory cannot surrender to Congress by anticipation the whole or a part of the sovereign power, which, by the constitution of the Union, will belong to it when it becomes a State and a member of the Union. Its consent is therefore nothing. It is in no situation to make this surrender. It is under the government of Congress; if it can barter away a part of its sovereignty, by anticipation, it can do so as to the whole; for where will you stop? If it does not cease to be a State, in the sense of the constitution, with only a certain portion of sovereign power, what other smaller portion will have that effect? If you depart from the standard of the constitution—that is, the quantity of domestic sovereignty left in the first contracting States, and secured by the original compact of Union, where will you get another standard? Consent is no standard; for consent may be gained to a surrender of all.

No State, or Territory, in order to become a State, can alienate or surrender any portion of its sovereignty to the Union, or to a sister State, or to a foreign nation. It is under an incapacity to disqualify itself for all the purposes of government left to it in the constitution, by stripping itself of attributes which arise from the natural equality of States, and which the constitution recognizes, not only because it does not deny them, but presumes them to remain as they exist by the law of nature and nations. Inequality in the sovereignty of States is unnatural, and repugnant to all the principles of that law. Hence we find it laid down by the text-writers on public law, that "Nature has established a perfect equality of rights between independent nations:" and that, "whatever the quality of a free sovereign nation gives to one, it gives to another."* The Constitution of the United States proceeds upon the truth of this doctrine. It takes the States as it finds them, *free and sovereign alike by nature.* It receives from them portions of their power for the general good, and provides for the exercise of it by organized political bodies. It diminishes the individual sovereignty of each, and transfers what it subtracts to the Government which it creates; it takes from all alike, and leaves them relatively to each other equal in sovereign power.

The honorable gentleman from New York has put the constitutional argument altogether upon the clause relative to admission of new States into the Union. He does not pretend that you can find the power to restrain, in any extent, elsewhere. It follows that it is not a particular power to impose this restriction, but a power to impose restrictions *ad libitum.* It is competent to this, because it is competent to every thing. But he denies that there can be any power in man to hold in slavery his fellow-creature, and argues, therefore, that the prohibition is no restraint at all, since it does not interfere with the sovereign powers of Missouri.

One of the most signal errors with which the argument on the other side has abounded, is this of considering the proposed restriction as if levelled at the introduction or establishment of slavery. And hence the vehement declamation which, among other things, has informed us that slavery originated in fraud or violence.

The truth is, that the restriction has no relation, real or pretended, to the right of making slaves of those who are free, or of introducing slavery where it does not already exist. It applies to those who are admitted to be already slaves, and who, with their posterity, would continue to be slaves if they should remain where they are at present; and to a place where slavery already exists by the local law. Their civil condition will not be altered by their removal from Virginia or Carolina to Missouri. They will not be more slaves than they now are. Their abode, indeed, will be different, but their bondage the same. Their numbers may possibly be augmented by the diffusion, and I think they will. But this can only happen because their hardships will be mitigated, and their comforts increased. The checks to population, which exist in the older States will be diminished. The restriction, therefore, does not prevent the establishment of slavery, either with reference to persons or place; but simply inhibits the removal from place to place (the law in each being the same) of a slave, or make his emancipation the consequence of that removal. It acts professedly merely on slavery as it exists,

* Vattel, *Droit des Gens*, liv. 2, c. 3, s. 36.

and thus acting restrains its present lawful effects. That slavery, like many other human institutions, originated in fraud or violence, may be conceded; but however it originated, it is established among us, and no man seeks a further establishment of it by new importations of freemen to be converted into slaves. On the contrary, all are anxious to mitigate its evils, by all the means within the reach of the appropriate authority, the domestic legislatures of the different States.

It can be nothing to the purpose of this argument, therefore, as the gentlemen themselves have shaped it, to inquire what was the origin of slavery. What is it now, and who are they that endeavor to innovate upon what it now is, (the advocates of this restriction who desire change by unconstitutional means, or its opponents who desire to leave the whole matter to local regulation?) are the only questions worthy of attention.

Sir, if we too closely look to the rise and progress of long-sanctioned establishments and unquestioned rights, we may discover other subjects than that of slavery, with which fraud and violence may claim a fearful connection, and over which it may be our interest to throw the mantle of oblivion. What was the settlement of our ancestors in this country but an invasion of the rights of the barbarians who inhabited it? That settlement, with slight exceptions, was effected by the slaughter of those who did no more than defend their native land against the intruders of Europe, or by unequal compacts and purchases, in which feebleness and ignorance had to deal with power and cunning. The savages who once built their huts where this proud Capitol, rising from its recent ashes, exemplifies the sovereignty of the American people, were swept away by the injustice of our fathers, and their domain usurped by force, or obtained by artifices yet more criminal. Our continent was full of those aboriginal inhabitants. Where are they or their descendants? Either "with years beyond the flood," or driven back by the swelling tide of our population from the borders of the Atlantic to the deserts of the West. You follow still the miserable remnants, and make *contracts* with them that seal their ruin. You purchase their lands, of which they know not the value, in order that you may sell them to advantage, increase your treasure, and enlarge your empire. Yet further; you pursue as they retire; and they must continue to retire until the Pacific shall stay their retreat, and compel them to pass away as a dream. Will you recur to those scenes of various iniquity for any other purpose than to regret and lament them? Will you pry into them with a view to shake and impair your rights of property and dominion?

But the broad denial of the sovereign right of Missouri, if it shall become a sovereign State, to recognize slavery by its laws, is rested upon a variety of grounds, all of which I will examine.

It is an extraordinary fact, that they who urge this denial with such ardent zeal, stop short of it in their conduct. There are now slaves in Missouri whom they do not insist upon delivering from their chains. Yet, if it is incompetent to sovereign power to continue slavery in Missouri, in respect of slaves who may yet be carried thither, show me the power that can continue it in respect of slaves who are there already. Missouri is out of the old limits of the Union, and beyond those limits, it is said, we can give no countenance to slavery, if we can countenance or tolerate it anywhere. It is plain that there can be no slaves beyond the Mississippi at this moment, but in virtue of some power to make or keep them so. What sort of power was it that has made or kept them so? Sovereign power it could not be, according to the honorable gentlemen from Pennsylvania, and New Hampshire, (Messrs. ROBERTS, LOWRIE, and MORRILL;) and if sovereign power is unequal to such a purpose, less than sovereign power is yet more unequal to it. The laws of Spain and France could do nothing; the laws of the territorial government of Missouri could do nothing towards such a result, if it be a result which no laws, in other words, no sovereignty could accomplish. The treaty of 1803 could do no more in this view, than the laws of France, or Spain, or the territorial government of Missouri. A treaty is an act of sovereign power, taking the shape of a compact between the parties to it; and that which sovereign power cannot reach at all, it cannot reach by a treaty. Those who are now held in bondage, therefore, in Missouri, and their issue, are entitled to be free, if there be any truth in the doctrine of the honorable gentlemen; and if the proposed restriction leaves all such in slavery, it thus discredits the very foundation on which it reposes. To be inconsistent is the fate of false principles; but this inconsistency is the more to be remarked, since it cannot be referred to mere considerations of policy, without admitting that such considerations may be preferred without a crime, to what is deemed a paramount and indispensable duty.

It is here, too, that I must be permitted to observe, that the honorable gentlemen have taken great pains to show that this restriction is a mere work of supererogation by the principal argument on which they rest the proof of its propriety. Missouri, it is said, can have no power to do what the restriction would prevent. It would be void, therefore, without the restriction. Why, then, I ask, is the restriction insisted upon? Restraint implies that there is something to be restrained; but the gentlemen justify the restraint, by showing that there is nothing upon which it can operate! They demonstrate the wisdom and necessity of restraint, by demonstrating that, with or without restraint, the subject is in the same predicament. This is to combat with a man of straw, and to put fetters upon a shadow.

The gentlemen must therefore abandon either their doctrine or their restriction—their argument or their object—for they are directly in

conflict, and reciprocally destroy each other. It is evident that they will not abandon their object, and, of course, I must believe that they hold their argument in as little real estimation as I myself do. The gentlemen can scarcely be sincere believers in their own principle. They have apprehensions which they endeavor to conceal, that Missouri, as a State, will have the power to continue slavery within its limits; and, if they will not be offended, I will venture to compare them, in this particular, with the duellist in Sheridan's comedy of the Rivals, who, affecting to have no fear whatever of his adversary, is, nevertheless, careful to admonish Sir Lucius to hold him fast.

Let us take it for granted, however, that they are in earnest in their doctrine, and that it is very necessary to impose what they prove to be an unnecessary restraint: how do they support that doctrine?

The honorable gentleman on the other side (Mr. KING) has told us, as a proof of his great position, that man cannot enslave his fellow man, in which is implied that all laws upholding slavery are absolute nullities; that the nations of antiquity, as well as of modern times, have concurred in laying down that position as incontrovertible.

He refers us, in the first place, to the Roman law, in which he finds it laid down as a maxim: *Jure naturali omnes homines ab initio liberi nascebantur.* From the manner in which this maxim was pressed upon us, it would not readily have been conjectured that the honorable gentleman who used it had borrowed it from a slaveholding Empire, and still less from a book of the Institutes of Justinian, which treats of slavery, and justifies and regulates it. Had he given us the context, we should have had the modifications of which the abstract doctrine was, in the judgment of the Roman law, susceptible. We should have had an explanation of the competency of that law, to convert, whether justly or unjustly, freedom into servitude, and to maintain the right of a master to the service and obedience of his slave.

The honorable gentleman might also have gone to Greece for a similar maxim and a similar commentary, speculative and practical.

He next refers us to Magna Charta. I am somewhat familiar with Magna Charta, and I am confident that it contains no such maxim as the honorable gentleman thinks he has discovered in it. The great charter was extorted from John, and his feeble son and successor, by haughty slaveholding barons, who thought only of themselves and the commons of England, (then inconsiderable,) whom they wished to enlist in their efforts against the Crown. There is not in it a single word which condemns civil slavery. Freemen only are the objects of its protecting care. "*Nullus liber homo*," is its phraseology. The serfs who were chained to the soil, the villeins regardant and in gross, were left as it found them. All England was then full of slaves, whose posterity would by law remain slaves as with us, except only that the issue followed the condition of the father instead of the mother. The rule was "*Partus sequitur patrem*"—a rule more favorable undoubtedly, from the very precariousness of its application, to the gradual extinction of slavery, than ours, which has been drawn from the Roman law, and is of sure and unavoidable effect.

Still less has the Petition of Right, presented to Charles I., by the Long Parliament, to do with the subject of civil slavery. It looked merely, as Magna Charta had done before it, to the freemen of England; and sought only to protect them against royal prerogative and the encroaching spirit of the Stuarts.

As to the Bill of Rights, enacted by the Convention Parliament of 1688, it is almost a duplicate of the Petition of Right, and arose out of the recollection of that political tyranny from which the nation had just escaped, and the recurrence of which it was intended to prevent. It contains no abstract principles. It deals only with practical checks upon the power of the monarch, and in safeguards for institutions essential to the preservation of the public liberty. That it was not designed to anathematize civil slavery may be taken for granted, since at that epoch and long afterwards, the English Government inundated its foreign plantations with slaves, and supplied other nations with them as merchandise, under the sanction of solemn treaties negotiated for that purpose. And here I cannot forbear to remark that we owe it to that same Government, when it stood towards us in the relation of parent to child, that involuntary servitude exists in our land, and that we are now deliberating whether the prerogative of correcting its evils belongs to the National or the State Governments. In the early periods of our colonial history every thing was done by the mother country to encourage the importation of slaves into North America, and the measures which were adopted by the Colonial Assemblies to prohibit it were uniformly negatived by the Crown. It is not therefore our fault, nor the fault of our ancestors, that this calamity has been entailed upon us; and, notwithstanding the ostentation with which the loitering abolition of the slave trade by the British Parliament has been vaunted, the principal consideration which at last reconciled it to that measure was, that, by suitable care, the slave population in their West India islands, already fully stocked, might be kept up and even increased without the aid of importation. In a word, it was cold calculations of interest, and not the suggestions of humanity, or a respect for the philanthropic principles of Mr. Wilberforce, which produced their tardy abandonment of that abominable traffic.

Of the Declaration of our Independence, which has also been quoted in support of the perilous doctrines now urged upon us, I need not now speak at large. I have shown on a former occasion, how idle it is to rely upon that instrument for such a purpose, and I will not

fatigue you by mere repetition. The self-evident truths announced in the Declaration of Independence, are not truths at all, if taken literally; and the practical conclusions contained in the same passage of that declaration prove that they were never designed to be so received.

The Articles of Confederation contain nothing on the subject; whilst the actual constitution recognizes the legal existence of slavery by various provisions. The power of prohibiting the slave trade is involved in that of regulating commerce, but this is coupled with an express inhibition to the exercise of it for twenty years. How, then, can that constitution which expressly permits the importation of slaves, authorize the National Government to set on foot a crusade against slavery?

The clause respecting fugitive slaves is affirmative and active in its effects. It is a direct sanction and positive protection of the right of the master to the services of his slave, as derived under the local laws of the States. The phraseology in which it is wrapped up, still leaves the intention clear, and the words, "persons held to service or labor in one State under the laws thereof," have always been interpreted to extend to the case of slaves, in the various acts of Congress which have been passed to give efficacy to the provision, and in the judicial application of those laws. So also in the clause prescribing the ratio of representation—the phrase, "three-fifths of all other persons," is equivalent to *slaves*, or it means nothing. And yet we are told that those who are acting under a constitution which sanctions the existence of slavery in those States which choose to tolerate it, are at liberty to hold that no law can sanction its existence!

It is idle to make the rightfulness of an act the measure of sovereign power. The distinction between sovereign power and the moral right to exercise it, has always been recognized. All political power may be abused, but is it to stop where abuse may begin? The power of declaring war is a power of vast capacity for mischief, and capable of inflicting the most wide-spread desolation. But it is given to Congress without stint and without measure. Is a citizen, or are the courts of justice, to inquire whether that, or any other law, is just, before they obey or execute it? And are there any degrees of injustice, which will withdraw from sovereign power the capacity of making a given law?

But sovereignty is said to be *deputed* power. Deputed—by whom? By the people, because the power is theirs. And if it be theirs, does not the restriction take it away? Examine the Constitution of the Union, and it will be seen that the people of the States are regarded as well as the States themselves. The constitution was made by the people, and ratified by the people.

Is it fit, then, to hold that all the sovereignty of a State is in the government of the State? So much is there as the people grant: and the people can take it away, or give more, or new model what they have already granted. It is this right which the proposed restriction takes from Missouri. You give them an immortal constitution, depending on your will, not on theirs. The people and their posterity are to be bound forever by this restriction; and upon the same principle, any other restriction may be imposed. Where, then, is their power to change the constitution, and to devolve new sovereignty upon the State government? You limit their sovereign capacity to do it; and when you talk of a State, you mean the people as well as the Government. The people are the source of all power—you dry up that source. They are the reservoir—you take out of it what suits you.

It is said that this Government is a Government of deputed powers. So is every government—and what power is not deputed remains. But the people of the United States can give it more if they please, as the people of each State can do in respect to its own government. And here it is well to remember that this is a Government of enumerated, as well as deputed powers; and to examine the clause as to the admission of new States, with that principle in view. Now assume that it is a part of the sovereign power of the people of Missouri to continue slavery, and to devolve that power upon its Government, and then to take it away, and then to give it again. The Government is their creature—the means of exercising their sovereignty, and they can vary those means at their pleasure. Independently of the Union, their power would be unlimited. By coming into the Union, they part with some of it, and are thus less sovereign.

Let us, then, see whether they part with this power.

If they have parted with this portion of sovereign power, it must be under that clause of the national constitution which gives to Congress "power to admit new States into this Union." And it is said that this necessarily implies the authority of prescribing the conditions upon which such new States shall be admitted. This has been put into the form of a syllogism, which is thus stated:

Major. Every universal proposition includes all the means, manner, and terms, of the act to which it relates.

Minor. But this is a universal proposition.

Conclusion. Therefore, the means, manner, and terms, are involved in it.

But this syllogism is fallacious, and any thing else may be proved by it, by assuming one of its members which involves the conclusion. The minor is a mere postulate.

Take it in this way:

Major. None but a universal proposition includes in itself the terms and conditions of the act to be done.

Minor. But this is not such a universal proposition.

Conclusion. Therefore, it does not contain, in itself, the terms and conditions of the act.

In both cases, the minor is a gratuitous postulate.

But I deny that a universal proposition, as to a specific act, involves the terms and conditions of that act, so as to vary it and substitute another and a different act in its place. The proposition contained in the clause, is universal in one sense only. It is particular in another. It is universal as to the power to admit or refuse. It is particular as to the being or thing to be admitted, and the compact by which it is to be admitted. The sophistry consists in extending the universal part of the proposition in such a manner as to make out of it another universal proposition. It consists in confounding the right to produce or to refuse to produce a certain defined effect, with a right to produce a different effect by refusing otherwise to produce any effect at all. It makes the actual right the instrument of obtaining another right with which the actual right is incompatible. It makes, in a word, lawful power the instrument of unlawful usurpation. The *result* is kept out of sight by this mode of reasoning. The discretion to decline that result, which is called a universal proposition, is singly obtruded upon us. But, in order to reason correctly, you must keep in view the defined result, as well as the discretion to produce or to decline to produce it. The result is the particular part of the proposition; therefore, the discretion to produce or decline it, is the universal part of it. But, because the last is found to be universal, it is taken for granted that the first is also universal. This is a sophism too manifest to impose.

But, discarding the machinery of syllogisms as unfit for such a discussion as this, let us look at the clause with a view of interpreting it by the rules of sound logic and common sense.

The power is, "to admit new States into this Union;" and it may be safely conceded that here is discretion to admit or refuse. The question is, what must we do, if we do any thing? What must we admit, and into what? The answer is, a State—and into this Union.

The distinction between federal rights and local rights, is an idle distinction. Because the new State acquires federal rights, it is not, therefore, in this Union. The Union is a compact; and is it an equal party to that compact, because it has equal federal rights? How is the Union formed? By equal contributions of power. Make one member sacrifice more than another, and it becomes unequal. The compact is of two parts:

1. The thing obtained—federal rights.
2. The price paid—local sovereignty.

You may disturb the balance of the Union, either by diminishing the thing acquired, or increasing the sacrifice paid.

What were the purposes of coming into the Union among the original States? The States were originally sovereign, without limit, as to foreign and domestic concerns. But, being incapable of protecting themselves singly, they entered into the Union to defend themselves against foreign violence. The domestic concerns of the people were not, in general, to be acted on by it. The security of the power of managing them by domestic legislature, is one of the great objects of the Union. The Union is a *means* not an *end*. By requiring greater sacrifices of domestic power, the end is sacrificed to the means. Suppose the surrender of all, or nearly all, the domestic powers of legislation were required; the means would there have swallowed up the end.

The argument that the compact may be enforced, shows that the federal predicament is changed. The power of the Union not only acts on persons and citizens, but on the faculty of the Government, and restrains it in a way which the constitution nowhere authorizes. This new obligation takes away a right which is expressly "reserved to the people or the States," since it is nowhere granted to the Government of the Union. You cannot do indirectly what you cannot do directly. It is said that this Union is competent to make compacts. Who doubts it? But can you make this compact? I insist that you cannot make it, because it is repugnant to the thing to be done.

The effect of such a compact would be to produce that inequality in the Union, to which the constitution, in all its provisions, is averse. Every thing in it looks to equality among the members of the Union. Under it you cannot produce inequality. Nor can you get beforehand of the constitution, and do it by anticipation. Wait until a State is in the Union, and you cannot do it; yet it is only upon the State in the Union that what you do begins to act.

But it seems, that, although the proposed restriction may not be justified by the clause of the constitution which gives power to admit new States into the Union, separately considered, there are other parts of the constitution which, combined with that clause, will warrant it. And first, we are informed that there is a clause in this instrument which declares that Congress shall guarantee to every State a republican form of government; that slavery and such a form of government are incompatible; and, finally, as a conclusion from these premises, that Congress not only have a *right*, but are *bound* to exclude slavery from a new State. Here, again, sir, there is an edifying inconsistency between the argument and the measure which it professes to vindicate. By the argument, it is maintained that Missouri cannot have a republican form of government, and at the same time tolerate negro slavery. By the measure it is admitted that Missouri may tolerate slavery, as to persons already in bondage there, and be nevertheless fit to be received into the Union. What sort of constitutional mandate is this, which can thus be

made to bend, and truckle, and compromise, as if it were a simple rule of expediency that might admit of exceptions upon motives of countervailing expediency? There can be no such pliancy in the peremptory provisions of the constitution. They cannot be obeyed by moieties and violated in the same ratio. They must be followed out to their full extent, or treated with that decent neglect which has at least the merit of forbearing to render contumacy obtrusive by an ostentatious display of the very duty which we in part abandon. If the Decalogue could be observed in this casuistical manner, we might be grievous sinners, and yet be liable to no reproach. We might persist in all our habitual irregularities, and still be spotless. We might, for example, continue to covet our neighbors' goods, provided they were the same neighbors whose goods we had before coveted; and so of all the other commandments.

Will the gentlemen tell us that it is the *quantity of slaves*, not the *quality of slavery*, which takes from a government the republican form? Will they tell us (for they have not yet told us) that there are constitutional grounds, (to say nothing of common sense,) upon which the slavery which now exists in Missouri may be reconciled with a republican form of government, while any addition to the *number of its slaves*, (the quality of slavery remaining the same,) from the other States, will be repugnant to that form, and metamorphose it into some nondescript government disowned by the constitution? They cannot have recourse to the treaty of 1803 for such a distinction, since, independently of what I have before observed on that head, the gentlemen have contended that the treaty has nothing to do with the matter. They have cut themselves off from all chance of a convenient distinction in or out of that treaty, by insisting that slavery beyond the old United States is rejected by the constitution, and by the law of God, as discoverable by the aid of either reason or revelation; and, moreover, that the treaty does not include the case, and if it did, could not make it better. They have, therefore, completely discredited their own theory by their own practice, and left us no theory worthy of being seriously controverted. This peculiarity in reasoning, of giving out a universal principle, and coupling with it a practical concession that it is wholly fallacious, has, indeed, run through the greater part of the arguments on the other side; but it is not, as I think, the more imposing on that account, or the less liable to the criticism which I have here bestowed upon it.

There is a remarkable inaccuracy on this branch of the subject into which gentlemen have fallen, and to which I will give a moment's attention, without laying unnecessary stress upon it. The government of a new State, as well as of an old State, must, I agree, be republican in its *form*. But it has not been very clearly explained what the *laws* which such a government may enact can have to do with its *form*. The form of the government is material only as it furnishes a security that those laws will protect and promote the public happiness, and be made in a republican spirit. The people being, in such a Government, the fountain of all power, and their servants being periodically responsible to them for its exercise, the Constitution of the Union takes for granted, (except so far as it imposes limitations,) that every such exercise will be just and salutary. The introduction or continuance of civil slavery is manifestly the mere result of the power of making laws. It does not, in any degree, enter into the form of the government. It presupposes that form already settled, and takes its rise not from the particular frame of the government, but from the general power which every government involves. Make the government what you will in its organization and in the distribution of its authorities, the introduction or continuance of involuntary servitude by the legislative power which it has created, can have no influence on its pre-established form, whether monarchial, aristocratical, or republican. The form of government is still one thing, and the law, being a simple exertion of the ordinary faculty of legislation by those to whom that form of government has intrusted it, another. The gentlemen, however, identify an act of legislation sanctioning involuntary servitude with the form of government itself, and they assure us that the latter is changed retroactively by the first, and is no longer republican.

But let us proceed to take a rapid glance at the reasons which have been assigned for this notion that involuntary servitude and a republican form of government are perfect antipathies. The gentleman from New Hampshire (Mr. MORRILL) has defined a republican government to be that in which all the *men* participate in its power and privileges; from whence it follows that where there are slaves it can have no existence. A definition is no proof, however, and even if it be dignified (as I think it was) with the name of a maxim, the matter is not much mended. It is Lord Bacon who says that "nothing is so easily made as a maxim;" and, certainly, a definition is manufactured with equal facility. A political maxim is the work of induction, and cannot stand against experience, or stand on any thing but experience. But the maxim, or definition, or whatever else it may be, sets fact at defiance. If you go back to antiquity, you will obtain no countenance for this hypothesis; and if you look at home you will gain still less. I have read that Sparta, and Rome, and Athens, and many others of the ancient family, were Republics. They were so in form, undoubtedly—the last approaching nearer to a perfect Democracy than any other Government which has yet been known to the world. Judging of them, also, by their fruits, they were of the highest order of Republics. Sparta could scarcely be any other than a Re-

public, when a Spartan matron could say to her son just marching to battle, "*Return victorious, or return no more!*" It was the unconquerable spirit of liberty, nurtured by republican habits and institutions, that illustrated the Pass of Thermopylæ. Yet slavery was not only tolerated in Sparta, but was established by one of the fundamental laws of Lycurgus, having for its object the encouragement of that very spirit. Attica was full of slaves, yet the love of liberty was its characteristic. What else was it that foiled the whole power of Persia at Marathon and Salamis? What other soil than that which the genial sun of Republican freedom illuminated and warmed, could have produced such men as Leonidas and Miltiades, Themistocles and Epaminondas? Of Rome it would be superfluous to speak at large. It is sufficient to name the mighty mistress of the world, before Sylla gave the first stab to her liberties, and the great dictator accomplished their final ruin, to be reminded of the practicability of union between civil slavery and an ardent love of liberty cherished by republican establishments.

If we return home for instruction upon this point, we perceive that same union exemplified in many a State in which "Liberty has a temple in every house, an altar in every heart," while involuntary servitude is seen in every direction. Is it denied that those States possess a republican form of government? If it is, why does our power of correction sleep? Why is the constitutional guarantee suffered to be inactive? Why am I permitted to fatigue you, as the representative of a slaveholding State, with the discussion of the *nugæ canoræ* (for so I think them) that have been forced into this debate contrary to all the remonstrances of taste and prudence? Do gentlemen perceive the consequences to which their arguments must lead, if they are of any value? Do they reflect that they lead to emancipation in the old United States—or to an exclusion of Delaware, Maryland, and all the South, and a great portion of the West, from the Union?

My honorable friend from Virginia, sir, has no business here, if this disorganizing creed be the production of any thing but a heated brain. The State to which I belong must "perform a lustration"—must purge and purify herself from the feculence of civil slavery, and emulate the States of the North in their zeal for throwing down the gloomy idol which we are said to worship, before her Senators can have any title to appear in this high assembly. It will be in vain to urge that the old United States are exceptions to the rule; or, rather, (as the gentlemen express it,) that they have no *disposition* to apply the rule to them. There can be no exceptions, by implication only, to such a rule; and expressions which justify the exemption of the old States by inference, will justify the exemption of Missouri, unless they point exclusively to them, as I have shown they do not. The guarded manner, too, in which some of the gentlemen have occasionally expressed themselves on this subject, is somewhat alarming. They have no *disposition* to meddle with slavery in the old United States. Perhaps not; but who shall answer for their successors? Who shall furnish a pledge that the principle, once ingrafted into the constitution, will not grow, and spread, and fructify, and overshadow the whole land? It is the natural office of such a principle to wrestle with slavery, wheresoever it finds it. New States, colonized by the apostles of this principle, will enable it to set on foot a fanatical crusade against all who still continue to tolerate it, although no practicable means are pointed out by which they can get rid of it consistently with their own safety. At any rate, a present forbearing disposition, in a few or in many, is not a security upon which much reliance can be placed, upon a subject as to which so many selfish interests and ardent feelings are connected with the cold calculations of policy. Admitting, however, that the old United States are in no danger from this principle, why is it so? There can be no other answer, (which these zealous enemies of slavery can use,) than, that the constitution recognizes slavery as existing, or capable of existing in those States. The constitution, then, admits that slavery and a republican form of government are not incongruous. It associates and binds them up together, and repudiates this wild imagination which the gentlemen have pressed upon us with such an air of triumph. But, sir, the constitution does more, as I have heretofore proved. It concedes that slavery may exist in a new State, as well as in an old one, since the language in which it recognizes slavery comprehends new States as well as actual. I trust, then, that I shall be forgiven if I suggest that no eccentricity in argument can be more trying to human patience than a formal assertion that a constitution, to which slaveholding States were the most numerous parties, in which slaves are treated as property as well as persons, and provision is made for the security of that property, and even for an augmentation of it, by a temporary importation from Africa, a clause commanding Congress to guarantee a republican form of government to those very States, as well as to others, authorizes you to determine that slavery and a republican form of government cannot co-exist.

But if a republican form of government is that in which all the men have a share in the public power, the slaveholding States will not alone retire from the Union. The constitutions of some of the other States do not sanction universal suffrage, or universal eligibility. They require citizenship, and age, and a certain amount of property, to give a title to vote or to be voted for; and they who have not those qualifications are just as much disfranchised, with regard to the Government and its power, as if they were slaves. They have civil rights, indeed, (and so have slaves, in a less degree,) but they have no share in the Government.

Their province is to obey the laws, not to assist in making them. All such States must, therefore, be *foriafamiliated* with Virginia and the rest, or change their system; for the constitution, being absolutely silent on those subjects, will afford them no protection. The Union might thus be reduced from a Union to a unit. Who does not see that such conclusions flow from false notions; that the true theory of a republican Government is mistaken; and that, in such a Government, rights, political and civil, may be qualified by the fundamental law, upon such inducements as the freemen of the country deem sufficient? That civil rights may be qualified, as well as political, is proved by a thousand examples. Minors, resident aliens, who are in a course of naturalization—the other sex, whether maids, or wives, or widows, furnish sufficient practical proof of this.

Again, if we are to entertain these hopeful abstractions, and to resolve all establishments into their imaginary elements, in order to recast them upon some Utopian plan, and if it be true that all the men in a republican Government must help to wield its power, and be equal in rights, I beg leave to ask the honorable gentleman from New Hampshire—and why not all the *women?* They, too, are God's creatures, and not only very fair, but very rational creatures; and our great ancestor, if we are to credit Milton, accounted them the "wisest, virtuousest, discreetest, best;" although, to say the truth, he had but one specimen from which to draw his conclusion, and, possibly, if he had had more, would not have drawn it at all. They have, moreover, acknowledged civil rights in abundance, and, upon abstract principles, more than their masculine rulers allow them, in fact. Some monarchies, too, do not exclude them from the throne. We have all read of Elizabeth of England, of Catharine of Russia, of Semiramis, and Zenobia, and a long list of royal and imperial dames, about as good as an equal list of royal and imperial lords. Why is it that their exclusion from the power of a popular Government is not destructive of its republican character? I do not address this question to the honorable gentleman's gallantry, but to his abstraction, and his theories, and his notions of the infinite perfectibility of human institutions, borrowed from Godwin, and the turbulent philosophers of France. For my own part, sir, if I may have leave to say so much in the presence of this mixed, uncommon audience, I confess I am no friend to female government, unless, indeed, it be that which reposes on gentleness, and modesty, and virtue, and feminine grace and delicacy; and how powerful a government that is, we have all of us, as I suspect, at some time or other, experienced. But if the ultra republican doctrines which have now been broached should ever gain ground among us, I should not be surprised if some romantic reformer, treading in the footsteps of Mrs. Wolstonecraft, should propose to repeal our republican law *salique*, and claim for our wives and daughters a full participation in political power, and to add to it that domestic power which, in some families, as I have heard, is as absolute and unrepublican as any power can be.

I have thus far allowed the honorable gentlemen to avail themselves of their assumption that the constitutional command to guarantee to the States a republican form of government, gives power to coerce those States in the adjustment of the details of their constitutions upon theoretical speculations. But, surely, it is passing strange that any man, who thinks at all, can view this salutary command as the grant of a power so monstrous; or look at it in any other light than as a protecting mandate to Congress to interpose with the force and authority of the Union against that violence and usurpation by which a member of it might otherwise be oppressed by profligate and powerful individuals, or ambitious and unprincipled factions.

In a word, the resort to this portion of the constitution for an argument in favor of the proposed restriction, is one of those extravagances (I hope I shall not offend by this expression) which may excite our admiration, but cannot call for a very rigorous refutation. I have dealt with it accordingly, and have now done with it.

We are next invited to study that clause of the constitution which relates to the migration or importation, before the year 1808, of such persons as any of the States then existing should think proper to admit. It runs thus. "The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation not exceeding ten dollars for each person."

It is said that this clause empowers Congress, after the year 1808, to prohibit the passage of slaves from State to State, and the word "migration" is relied upon for that purpose.

I will not say that the proof of the existence of a power by a clause which, as far as it goes denies it, is always inadmissible; but I will say that it is always feeble. On this occasion, it is singularly so. The power, in an affirmative shape, cannot be found in the constitution; or, if it can, it is equivocal and unsatisfactory. How do the gentlemen supply this deficiency? By the aid of a negative provision in an article of the constitution, in which many restrictions are inserted *ex abundanti cautela*, from which it is plainly impossible to infer that the power to which they apply would otherwise have existed. Thus—"No bill of attainder or *ex post facto* law shall be passed." Take away the restriction, could Congress pass a bill of attainder, the trial by jury in criminal cases being expressly secured by the constitution? The inference, therefore, from the prohibition in question, whatever may be its meaning, to the power which it is supposed to restrain, but

which you cannot lay your finger upon with any pretensions to certainty, must be a very doubtful one. But the import of the prohibition is also doubtful, as the gentlemen themselves admit. So that a doubtful power is to be made certain by a yet more doubtful negative upon power—or rather, a doubtful negative, where there is no evidence of corresponding affirmative, is to make out the affirmative and to justify us in acting upon it, in a matter of such high moment, that *questionable* power should not dare to approach it. If the negative were perfectly clear in its import, the conclusion which has been drawn from it would be rash, because it might have proceeded, as some of the negatives in whose company it is found evidently did proceed, from great anxiety to prevent such assumptions of authority as are now attempted. But, when it is conceded that the supposed import of this negative (as to the term *migration*) is ambiguous, and that it may have been used in a very different sense from that which is imputed to it, the conclusion acquires a character of boldness, which, however some may admire, the wise and reflecting will not fail to condemn.

In the construction of this clause, the first remark that occurs is, that the word *migration* is associated with the word *importation*. I do not insist that *noscitur a sociis* is as good a rule in matters of interpretation as in common life; but it is, nevertheless, of considerable weight when the associated words are not qualified by any phrases that disturb the effect of their fellowship; and unless it announces, (as in this case it does not,) by specific phrases combined with the associated term, a different intention. Moreover, the ordinary unrestricted import of the word *migration* is what I have here supposed. A removal from district to district, within the same jurisdiction, is never denominated a *migration* of persons. I will concede to the honorable gentlemen, if they will accept the concession, that ants may be said to migrate when they go from one ant-hill to another at no great distance from it. But even then they could not be said to migrate, if each ant-hill was their home in virtue of some federal compact with insects like themselves. But, however this may be, it should seem to be certain that human beings do not *migrate*, in the sense of the constitution, simply because they transplant themselves from one place, to which that constitution extends, to another which it equally covers.

If this word *migration* apply to freemen, and not to slaves, it would be clear that removal from State to State would not be comprehended within it. Why, then, if you choose to apply it to slaves, does it take another meaning as to the place from whence they are to come?

Sir, if we once depart from the usual acceptation of this term, fortified as it is by its union with another in which there is nothing in this respect equivocal, will gentlemen please to intimate the point at which we are to stop? *Migration* means, as they contend, a removal from State to State, within the pale of the common Government. Why not a removal, also, from county to county within a particular State—from plantation to plantation—from farm to farm—from hovel to hovel? Why not any exertion of the power of locomotion? I protest I do not see, if this arbitrary limitation of the natural sense of the term *migration* be warrantable, that a person to whom it applies may not be compelled to remain immovable all the days of his life (which could not well be many) in the very spot, literally speaking, in which it was his good or his bad fortune to be born.

Whatever may be the latitude in which the word "persons" is capable of being received, it is not denied that the word "importation" indicates a bringing in from a jurisdiction foreign to the United States. The two *termini* of the *importation*, here spoken of, are a foreign country and the American Union—the first the *terminus a quo*, the second the *terminus ad quem*. The word *migration* stands in simple connection with it, and, of course, is left to the full influence of that connection. The natural conclusion is, that the same *termini* belong to each, or, in other words, that if the *importation* must be abroad, so also must be the *migration*—no other termini being assigned to the one which are not manifestly characteristic of the other. This conclusion is so obvious, that to repel it, the word *migration* requires, as an appendage, explanatory phraseology, giving to it a different beginning from that of *importation*. To justify the conclusion that it was intended to mean a removal from State to State, each within the sphere of the constitution in which it is used, the addition of the words *from one to another State in this Union*, were indispensable. By the omission of these words, the word "migration" is compelled to take every sense of which it is fairly susceptible from its immediate neighbor "importation." In this view it means a *coming*, as "importation" means a *bringing*, from a foreign jurisdiction into the United States. That it is susceptible of this meaning, nobody doubts. I go further. It can have no other meaning in the place in which it is found. It is found in the Constitution of this Union—which, when it speaks of *migration* as of a general concern, must be supposed to have in view a migration into the domain which itself embraces as a General Government.

Migration, then, even if it comprehends slaves, does not mean the removal of them from State to State, but means the coming of slaves from places beyond their limits and their power. And if this be so, the gentlemen gain nothing for their argument by showing that slaves were the objects of this term.

An honorable gentleman from Rhode Island, (Mr. BURRILL,) whose speech was distinguished for its ability, and for an admirable force of reasoning, as well as by the moderation and mildness of its spirit, informed us, with less

discretion than in general he exhibited, that the word "migration" was introduced into this clause at the instance of some of the Southern States, who wished by its instrumentality to guard against a prohibition by Congress of the passage into those States of slaves from other States.* He has given us no authority for this supposition, and it is, therefore, a gratuitous one. How improbable it is, a moment's reflection will convince him. The African slave trade being open during the whole of the time to which the entire clause in question referred, such a purpose could scarcely be entertained; but if it had been entertained, and there was believed to be a necessity for securing it, by a restriction upon the power of Congress to interfere with it, is it possible that they who deemed it important would have contented themselves with a vague restraint, which was calculated to operate in almost any other manner than that which they desired? If fear and jealousy, such as the honorable gentleman has described, had dictated this provision, a better term than that of "migration," simple and unqualified, and joined, too, with the word "importation," would have been found to tranquillize those fears and satisfy that jealousy. Fear and jealousy are watchful, and are rarely seen to accept a security short of their object, and less rarely to shape that security, of their own accord, in such a way as to make it no security at all. They always seek an explicit guarantee; and that this is not such a guarantee this debate has proved, if it has proved nothing else.

Sir, I shall not be understood, by what I have said, to admit that the word *migration* refers to *slaves*. I have contended, only, that if it did refer to slaves, it is, in this clause, synonymous with *importation*; and that it cannot mean the mere passage of slaves, with or without their masters, from one State in the Union to another.

But I now deny that it refers to slaves at all. I am not for any man's opinions or his histories upon this subject. I am not accustomed *jurare in verba magistri*. I shall take the clause as I find it, and do my best to interpret it. * *

[NOTE.—After going through with that part of his argument relating to this clause of the constitution, which it is impossible to restore from the imperfect notes, Mr. Pinkney concluded by expressing a hope that (what he deemed) the perilous principles urged by those in favor of the restriction upon the new State would be disavowed or explained, or that, at all events, the application of them to the subject under discussion would not be pressed, but that it might be disposed of in a manner satisfactory to all, by a prospective prohibition of slavery in the territory to the north and west of Missouri.]

When Mr. PINKNEY had concluded, the subject was postponed, on the motion of Mr. OTIS.

WEDNESDAY, February 16.

The Missouri Question.

The Senate resumed, as in Committee of the Whole, (Mr. BURRILL in the Chair,) the consideration of the Missouri question.

Mr. KING, of New York, again rose, and spoke more than one hour in support of the opinions which he had previously advanced on the right and expediency of restricting Missouri as to slavery, and in answer to the gentlemen who had replied to his previous remarks.

Mr. LOGAN, of Kentucky, followed, and spoke a short time in reply to Mr. KING.

Mr. SMITH, of South Carolina, spoke an hour in reply to Mr. KING.

Mr. LLOYD likewise spoke a short time in reply to Mr. KING.

Mr. KING, of New York, Mr. PINKNEY, Mr. BARBOUR, and Mr. MELLEN, respectively added a few remarks; when the question was taken on concurring in the amendment reported by the Judiciary Committee, (to unite the Maine and Missouri bills in one bill,) and decided in the affirmative, by yeas and nays, as follows:

For uniting the bills.—Messrs. Barbour, Brown, Eaton, Edwards, Elliot, Gaillard, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Leake, Lloyd, Logan, Macon, Pinkney, Pleasants, Smith, Stokes, Taylor, Thomas, Walker of Alabama, Walker of Georgia, Williams of Mississippi, and Williams of Tennessee—23.

Against uniting the bills.—Messrs. Burrill, Dana, Dickerson, Horsey, Hunter, King of New York, Lanman, Lowrie, Mellen, Morrill, Noble, Otis, Palmer, Parrott, Roberts, Ruggles, Sanford, Tichenor, Trimble, Van Dyke, and Wilson—21.

The Compromise Offered.

Mr. THOMAS, of Illinois, then offered an amendment to the Missouri branch of the bill, proposing, in substance, to prohibit slavery in all the territory beyond the Mississippi, north of thirty-six and a half degrees of north latitude, excepting within the limits of the proposed State of Missouri.

Mr. BARBOUR, of Virginia, moved to amend the amendment by striking out thirty-six and a half degrees, and inserting, as the line north of which slavery should hereafter be excluded, the fortieth degree of north latitude.

The motion was supported by the mover, and opposed by Mr. EDWARDS, of Illinois; and after a short discussion, the motion was negatived—three or four only rising in favor of it.

Mr. EATON then offered, as a substitute to Mr. THOMAS's amendment, a section prescribing the same limits beyond which slavery shall not

* Mr. Madison has told the reason—told it in that letter to Mr. Robert Walsh, which has been mentioned. It was put in for the ease of some consciences in the convention—men who could not tolerate the word slave, in the constitution; and, by an easy extension of that feeling, equally objected to any equivalent phrase. For their ease, "*migration*" was added to "*importation*"—while persons imported were the only ones intended, but whose importation they could understand as a species of migration; and so find in an expletive a relief for their consciences. It was a designed, but a forced ambiguity, the only one in the constitution, and which has been a puzzle to many.

be allowed, but made applicable to the same, only "while said portion of country remains a Territory." A substitute for the amendment not being in order, according to the rules of the Senate, Mr. EATON withdrew his proposition.

Mr. TRIMBLE, of Ohio, next proposed to amend Mr. THOMAS's amendment, substantially, by making it to apply to all the country west of the Mississippi, except so much as is comprehended within the State of Louisiana and the proposed State of Missouri.—Rejected.

After considerable discussion, but before the question was put on the amendment of Mr. THOMAS, the subject was postponed until to-morrow; and the Senate adjourned.

THURSDAY, February, 17.

Missouri State Bill.

THE COMPROMISE.

The following amendment, offered by Mr. THOMAS, and pending when the Senate adjourned yesterday, being still under consideration:

"*And be it further enacted*, That the sixth article of compact of the ordinance of Congress, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the territory of the United States northwest of the river Ohio, shall, to all intents and purposes, be, and hereby is, deemed and held applicable to, and shall have full force and effect in and over, all that tract of country ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, excepting only such part thereof as is included within the limits of the State contemplated by this act."

Mr. THOMAS withdrew this amendment, and offered the following as a new section:

"*And be it further enacted*, That, in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, excepting only such part thereof as is included within the limits of the State contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes whereof the party shall have been duly convicted, shall be and is hereby forever prohibited: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any State or Territory of the United States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid."

Mr. TRIMBLE moved to amend said proposed amendment, by striking out after the word "that," in the first line, the following: "territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, excepting only such part thereof as is included within the limits of the State contemplated by this act;" and inserting in lieu thereof the following: "All that part of Louisiana (as ceded by France to the United States) which lies west of the Mississippi River, except that part which is contained in the State of Louisiana, and except that part of the territory which lies north of the State of Louisiana, and east of the seventeenth or ninety-fourth degree of west longitude, agreeably to Melish's map, and south of the line which may be established for the northern boundary for the proposed State of Missouri;" (in substance, to exclude slavery from the whole country west of the Mississippi, except in Louisiana, Arkansas, and Missouri.)

This motion was, after some discussion, decided in the negative, by yeas and nays, as follows:

For Mr. Trimble's amendment.—Messrs. Burrill, Dana, Dickerson, Horsey, Hunter, King of New York, Lanman, Lowrie, Mellen, Morrill, Otis, Palmer, Parrott, Roberts, Ruggles, Sanford, Tichenor, Trimble, Van Dyke, and Wilson—20.

Against it.—Messrs. Barbour, Brown, Eaton, Elliot, Edwards, Gaillard, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Leake, Lloyd, Logan, Macon, Noble, Pinkney, Pleasants, Smith, Stokes, Taylor, Thomas, Walker of Alabama, Walker of Georgia, Williams of Mississippi, and Williams of Tennessee—24.

The question then recurred on Mr. THOMAS's amendment, which is in the following words:

"*And be it further enacted*, That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, excepting only such part thereof as is included within the limits of the State contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes whereof the party shall have been duly convicted, shall be and is hereby forever prohibited: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any State or Territory of the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid."

On the adoption of this amendment the question was taken by yeas and nays, and determined in the affirmative, as follows:

For the amendment.—Messrs. Brown, Burrill, Dana, Dickerson, Eaton, Edwards, Horsey, Hunter, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Lanman, Leake, Lloyd, Logan, Lowrie, Mellen, Morrill, Otis, Palmer, Parrott, Pinkney, Roberts, Ruggles, Sanford, Stokes, Thomas, Tichenor, Trimble, Van Dyke, Walker of Alabama, Williams of Tennessee, and Wilson—34.

Against the amendment.—Messrs. Barbour, Elliot, Gaillard, Macon, Noble, Pleasants, Smith, Taylor, Walker of Georgia, and Williams of Mississippi—10.

Mr. TRIMBLE then moved to amend the bill, so as to bring the north line of the State of Missouri about half a degree south of the line proposed; with the view, as he stated, substantially, to give to the State which shall hereafter be formed north of the Missouri, a share of the fine valley of the Des Moines, of which he spoke from personal knowledge, particularly as the Missouri State will possess both sides of the Missouri River, which runs nearly through

its middle, from its east to its western boundary.

This motion was negatived; and, after some other amendments necessary to make the parts of the bill conform to each other, the question was taken on ordering the bill, as amended, to be engrossed and read a third time, and decided by yeas and nays, as follows:

YEAS.—Messrs. Barbour, Brown, Eaton, Edwards, Elliot, Gaillard, Horsey, Hunter, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Leake, Lloyd, Logan, Parrott, Pinkney, Pleasants, Stokes, Thomas, Van Dyke, Walker of Alabama, Walker of Georgia, Williams of Mississippi, Williams of Tennessee—24.

NAYS.—Messrs. Burrill, Dana, Dickerson, King of New York, Lanman, Lowrie, Macon, Mellen, Morrill, Noble, Otis, Palmer, Roberts, Ruggles, Sanford, Smith, Taylor, Tichenor, Trimble, and Wilson—20.

So the bill was ordered to be engrossed and read a third time to-morrow.

MONDAY, February 28.

The Maine Bill.

The House disagrees to the Senate's amendments to the Maine bill, and a motion had been made in the Senate to recede.

[These amendments embrace two distinct measures; the one admitting Missouri into the Union, the other prohibiting the future transportation of slaves into the Territories of the United States.]

The question of order, depending on the last adjournment, was, after a few remarks on it by Mr. WILSON, by a vote of 22 to 17, decided in favor of the divisibility of the question of recession from the amendments of the Senate.

The question was then taken, without debate, on receding from so much of the amendments of the Senate as provides for the admission of Missouri into the Union, and decided as follows:

For receding.—Messrs. Burrill, Dana, Dickerson, Horsey, Hunter, King of New York, Lanman, Lowrie, Mellen, Morrill, Noble, Otis, Palmer, Parrott, Roberts, Ruggles, Sanford, Tichenor, Trimble, Van Dyke, and Wilson—21.

Against receding.—Messrs. Barbour, Brown, Eaton, Edwards, Elliot, Gaillard, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Leake, Lloyd, Logan, Macon, Pinkney, Pleasants, Smith, Stokes, Taylor, Thomas, Walker of Alabama, Walker of Georgia, Williams of Mississippi, and Williams of Tennessee—23.

So the Senate refused (every member of the Senate being in his seat) to recede from this part of its amendments.

The question was then taken, also without debate, on the receding from so much as regards the inhibition of slavery in the Territories of the United States north of 36 degrees 30 minutes north latitude, and decided as follows:

YEAS.—Messrs. Barbour, Elliot, Gaillard, Macon, Noble, Pleasants, Sanford, Smith, Taylor, Walker of Georgia, and Williams of Mississippi—11.

NAYS.—Messrs. Brown, Burrill, Dana, Dickerson, Eaton, Edwards, Horsey, Hunter, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, King of New York, Lanman, Leake, Lloyd, Logan, Lowrie, Mellen, Morrill, Otis, Palmer, Parrott, Pinkney, Roberts, Ruggles, Stokes, Thomas, Tichenor, Trimble, Van Dyke, Walker of Alabama, Williams of Tennessee, and Wilson—33.

So the Senate refused to recede from this or any part of its amendments to the bill for the admission of Maine into the Union.

On motion of Mr. BARBOUR, the Senate then determined to insist on the first clause of its amendments; and, on motion of Mr. ROBERTS, it determined, in like manner, to insist on the latter clause of its amendments. And the Secretary was instructed to inform the House of Representatives accordingly.

The Senate was about to adjourn, when the Clerk of the House of Representatives presented himself at the door, with a message, that the House of Representatives had insisted on their disagreement to the amendments of the Senate to the Maine bill.

Mr. THOMAS then moved that a committee of conference be appointed, to confer with the House of Representatives on the subject.

Hereupon commenced a debate, characterized by some vehemence and warm feeling.

Mr. KING, of Alabama, and Mr. SMITH, were in favor of adhesion, which forecloses conference; Mr. KING, of New York, spoke in explanation, and Messrs. BARBOUR, THOMAS, JOHNSON, of Kentucky, LOWRIE, MORRILL, DANA, EATON, MACON, and MELLEN, successively supported the conference.

The debate resulted in this: that a motion for deferring the question was negatived, and the Senate voted, not without opposition, but without dividing, to request a conference with the House of Representatives.

The Senate then balloted for managers thereof on their part, and Messrs. THOMAS, PINKNEY, and BARBOUR, were duly elected.

THURSDAY, March 2.

The Missouri Bill.—The Restriction agreed to by the House; motion in the Senate to strike it out.

The bill was, on motion of Mr. BARBOUR, immediately taken up, and read a first and second time; and, at his instance also, was then forthwith taken up as in Committee of the Whole.

Mr. BARBOUR moved to strike out of section four, line twenty-two, after the word "and" where it first occurs in this line, to the end of the thirtieth line, the following:

"And shall ordain and establish, that there shall be neither slavery nor involuntary servitude in the said State, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any other State, such fugitive may be lawfully reclaimed, and conveyed to the person claim-

ing his or her labor or service, as aforesaid: *Provided, nevertheless*, That the said provision shall not be construed to alter the condition or civil rights of any person now held to service or labor in the said Territory. *And provided also.*"

The subject, Mr. B. said, had been so fully discussed, and so often passed upon, and the yeas and nays recorded on it, that he thought it unnecessary to say any thing on the subject; and he should forbear even the asking for the yeas and nays upon it.

Mr. KING, of New York, said he was perfectly ready to concur in the sentiment expressed by the gentleman from Virginia. He had no idea of producing delay in bringing this matter to a conclusion, which only would be the effect of discussion; but was ready to concur in any course which would lead to its speedy termination.

Mr. HORSEY said, that, having been necessarily absent when this question was before decided, he wished now to be indulged with an opportunity of recording his vote.

The yeas and nays were accordingly ordered to be taken, and stood—yeas 27, nays 15, as follows:

YEAS.—Messrs. Barbour, Brown, Eaton, Edwards, Elliot, Gaillard, Horsey, Hunter, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Lanman, Leake, Lloyd, Logan, Macon, Parrott, Pinkney, Pleasants, Smith, Stokes, Thomas, Van Dyke, Walker of Alabama, Walker of Georgia, Williams of Mississippi, and Williams of Tennessee.

NAYS.—Messrs. Burrill, Dana, Dickerson, King of New York, Lowrie, Mellen, Morrill, Noble, Otis, Roberts, Ruggles, Sanford, Taylor, Trimble, and Wilson.

On motion by Mr. THOMAS, it was agreed further to amend the bill, by adding thereto the following section:

"SEC. 8. *And be it further enacted*, That, in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, not included within the limits of the State contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted, shall be, and is hereby, forever prohibited: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any State or Territory of the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid."

The bill having been thus amended, it was reported to the House accordingly; and, the first amendment being concurred in,

Mr. TRIMBLE moved to amend the new section agreed to, as in Committee of the Whole, by striking out therefrom—

"All that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, not included within the limits of the State contemplated by this act," and inserting in lieu thereof the following: "All that part of Louisiana west of the Mississippi, ceded by France to the United States, except the State of Louisiana, the territory included in the proposed State of Missouri, and the Arkansas Territory, east of the seventeenth or ninety-fourth degree of longitude, (agreeably to Melish's map.")

Mr. TRIMBLE said he would not have offered this amendment, but with the hope that some agreement might take place between the two Houses, and in the belief that that amendment embraced principles on which the two Houses might unite on this subject. When we go into the territory which was uninhabited at the date of the Louisiana treaty, and is yet uninhabited, very few, he believed, entertained scruples as to the constitutionality of the restriction. For his part, he did not see on what principle the constitution could be brought to bear on the subject. He had offered this amendment with a view, should it succeed, to vote for the bill in its present form. He had little doubt that it contained principles on which, were it agreed to, the bill would pass the other House; and he was under the impression that it would not succeed on the principle of the amendment of the gentleman from Illinois, as it now stood.

The question was then taken, without debate, on Mr. TRIMBLE's motion to amend the amendment, as above stated, and decided as follows:

YEAS.—Messrs. Burrill, Dana, Dickerson, King of New York, Lanman, Mellen, Morrill, Otis, Ruggles, Sanford, Trimble, and Wilson—12.

NAYS.—Messrs. Barbour, Brown, Eaton, Edwards, Elliot, Gaillard, Horsey, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Leake, Lloyd, Logan, Lowrie, Macon, Noble, Palmer, Parrott, Pinkney, Pleasants, Roberts, Smith, Stokes, Taylor, Thomas, Van Dyke, Walker of Alabama, Walker of Georgia, Williams of Mississippi, Williams of Tennessee—30.

Mr. THOMAS's amendment was then concurred in, as agreed to in Committee of the Whole.

It was agreed to amend the title by adding thereto, "and to prohibit slavery in certain territories."

And the amendments were then ordered to be engrossed, and, with the bill, to be read a third time: it was read a third time accordingly, passed, and sent to the House of Representatives, requesting their concurrence in the amendments.*

* The debates and proceedings on the *compromise* were brief, and free from acerbity, and the vote largely in its favor: it was the proposed *restriction* on the *State* of Missouri which so long occupied, and embittered the two Houses, and on which the vote was always close, and strongly marked by a geographical line. No two measures could be more distinct in their natures, or opposite in their features. The restriction applied to a State, the compromise to Territories. The restriction was to prevent the State of Missouri from ever possessing slaves: the compromise was to divide territory between the free and the slave States. The attempted restriction raised the storm of the Missouri controversy; the compromise allayed it. Yet the two measures, in these later times, have often been confounded, and eminent public men misplaced with respect to them—among the rest, Mr. Madison, in his letter of Nov. 27th, 1819, in reply to Mr.

FRIDAY, March 3.

Maine Bill.

Mr. THOMAS, from the managers on the part of the Senate, at the conference on the subject of the disagreeing votes of the two Houses, on the amendments proposed by the Senate, to the bill, entitled "An act for the admission of the State of Maine into the Union," made the following report:

The Committee of Conference of the Senate and of the House of Representatives, on the subject of the disagreeing votes of the two Houses, upon the bill, entitled "An act for the admission of the State of Maine into the Union," report the following resolution:

Resolved, 1st. That they recommend to the Senate to recede from their amendments to the said bill.

2d. That they recommend to the two Houses to agree to strike out of the fourth section of the bill from the House of Representatives now pending in the Senate, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union upon an equal footing with the original States," the following proviso, in the following words: "And shall ordain and establish, that there shall be neither slavery nor involuntary servitude otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any other State, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid: *Provided, nevertheless*, That the said provision shall not be construed to alter the condition or civil rights of any person now held to service or labor in the said territory." And that the following provision be added to the bill:

And be it further enacted, That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, not included within the limits of the State contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted, shall be, and is hereby, forever prohibited: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any other State or Territory of the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

The report was read.

On motion by Mr. THOMAS,

Resolved, That a further conference be asked on the disagreeing votes of the two Houses on the said bill.

Ordered, That Messrs. THOMAS, BARBOUR, and PINKNEY, be the managers on the part of the Senate.

Maine Bill.

Mr. THOMAS, from the managers on the part of the Senate, at the conference on the disagreeing votes of the two Houses on the bill, entitled "An act for the admission of the State of Maine into the Union," made the following report:

That the Committee of Conference recommend to the two Houses that the word "next" be stricken out of the said bill, and the words "in the year one thousand eight hundred and twenty," be inserted in lieu thereof.

Whereupon, it was

Resolved, That the Senate concur in both the reports of the Committee of Conference; that they recede from their amendment to the said bill, and that it be amended by striking out of line the third the word "next," and inserting in lieu thereof "one thousand eight hundred and twenty," accordingly.

Ordered, That the Secretary notify the House of Representatives accordingly, and request their concurrence in the said amendment.

MONDAY, March 6.

The Public Lands.

The Senate resumed, as in Committee of the Whole, the consideration of the bill making further provision for the sale of public lands, together with the amendments proposed thereto by Mr. WALKER, of Alabama, as follows:

And be it further enacted, That purchasers of public lands, which have been sold prior to the —— day of —— next, shall be permitted to forfeit and surrender the same before the day of final payment, by delivering their certificates to the register, and endorsing thereon their consent that the land therein described shall be re-sold: whereupon, the said certificates shall be considered as cancelled; and the land shall be deemed and taken to have reverted to the United States, and shall be disposed of, in all respects, like other reverted or forfeited lands, according to the provisions of the fourth section of this act; but, if such lands should be sold for more than one dollar and —— cents per acre, the excess shall be paid over to the former certificate-holder: *Provided*, That such excess shall not be greater than the amount previously paid on such certificate.

Mr. WALKER submitted a number of arguments in support of his amendment, and entered into particular statements of the amount of sales, the prices given in Alabama and elsewhere, for public lands, the great amount of debt due and becoming due, &c., to show the propriety of affording the relief which his amendment contemplated; but, as the Senate was this morning thin, and the subject before it of great importance, he hoped its consideration might for the present be postponed.

Mr. WILSON, though uniformly friendly to the principle of the bill, was willing to defer its consideration until the Senate should be full, and moved to postpone it till to-morrow.

Robert Walsh. That letter has been highly quoted as a letter against the compromise: by looking at its date, it will be seen to have been written three months before the compromise had been mentioned in either House of Congress: by looking at its terms, it will be seen that the word compromise is not in it, nor any allusion to such a thing: by following its argument, it will be seen to apply wholly to the removal of slaves to States. And the style of the letter was precisely that of the arguments in Congress against the restriction.

Mr. THOMAS proposed a postponement to Wednesday next.

Mr. OTIS was opposed to so distant a postponement, as he feared it might endanger the bill, which had already been postponed through all the moods and tenses. It had been lost in the other House, at the last session, after passing this, for want of time. Should it be again defeated from the same cause, it was to be feared that they might bid adieu to all hope of the measure. Mr. O. made a remark or two on the subject of the amendment, to show that, however equitable the relief, it was doubtful whether the measure would be proper before the debt for which the sales were pledged had been paid off.

Mr. WALKER replied, to obviate the objection of Mr. OTIS; and the postponement was supported by Mr. NOBLE, and opposed by Mr. RUGGLES.

The motion to postpone to Wednesday was lost, and the motion for to-morrow prevailed—18 to 14; but a reconsideration of the vote was subsequently moved and agreed to, and the motion to postpone being then negatived, the Senate resumed the consideration of the bill and amendment.

Mr. KING, of Alabama, had no hope, from the indications which he saw, that the amendment would be adopted; but, if the change proposed by the bill should take place, he had no doubt the Legislature would see the necessity of some such relief as the amendment offered. He would now merely call for the yeas and nays on the question.

The amendment was supported by Messrs. EDWARDS and KING of Alabama, and was opposed by Messrs. TRIMBLE, LANMAN, and KING of New York, not because opposed to affording the relief contemplated, but from an unwillingness to connect it with the present bill, &c.

The question being taken on the amendment, it was decided by yeas and nays, as follows:

YEAS.—Messrs. Edwards, Johnson of Kentucky, King of Alabama, Logan, Noble, Smith, Thomas, and Walker of Alabama—8.

NAYS.—Messrs. Brown, Burrill, Dana, Dickerson, Eaton, Elliot, Gaillard, Hunter, Johnson of Louisiana, King of New York, Lanman, Leake, Lowrie, Macon, Mellen, Morrill, Otis, Palmer, Parrott, Pleasants, Ruggles, Sanford, Stokes, Taylor, Trimble, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson—29.

Mr. EDWARDS said, although he was decidedly opposed to the change in the mode of disposing of the public lands, which is provided for by the bill now under consideration, from the strongest convictions, that, while it is calculated to operate with peculiar hardship upon those who have not the good fortune to have the present command of money, and to retard the settlement and check the prosperity of the State which he has the honor, in part, to represent, it was also inexpedient, on the part of the Government itself, to place its own interest so much in the power of moneyed capitalists, who, owing to the present temporary scarcity of money, can, by combinations for that purpose, with the utmost facility, put down competition at the public sales, and engross as much of the best lands as they please, upon the lowest terms or minimum price; yet, if the bill must pass, and I see (said Mr. E.) no prospect of opposing it with success, in this House, I do most sincerely hope it will be with such modifications as will produce the least individual hardships and the most general satisfaction; for, whatever may have been the zeal with which I have hitherto opposed the measure, I can assure gentlemen that it has been no part of my object to excite discontents elsewhere, and that there is no man living who has been more uniformly disposed to discountenance local jealousies, and to cherish a spirit of concord and harmony throughout every part of our common country, than I myself have been.

My judgment may have deceived me; my personal interest, however, I well know, cannot have misled me; for that would have been promoted by the contemplated change, which cannot fail to be beneficial to all those who have heretofore purchased lands which they wish to dispose of, or who have money to purchase, with that view; and hence it is, probably, that we have seen letters from large landholders in the West to members of this body, exhibited as disinterested testimony in favor of the proposed change, and passing from seat to seat, for the purpose of convincing our minds, not only of its propriety, but of the absolute necessity for its speedy adoption.

Mr. E. contended, that the present system of disposing of the public lands had been successfully tested by the experience of many years; that Ohio and Indiana, in particular, had flourished under its operation, and, without any injury to the Union, had increased their population and prosperity with unparalleled rapidity. But, said he, like all other human institutions, it seems that the system had not the necessary perfection to suit it to all times and circumstances; and it is alleged, as a reason demanding the proposed change, that excessive purchases were made, during a period of universal delusion, which equally operated upon every thing else, and which no one believes is likely to recur, for a long time to come at least. But, said he, can it be a dictate of wisdom to predicate a general system upon a particular and extraordinary case, which is gone by, and in all probability will never again occur? Can it be wise to select that moment for abolishing all credit upon the sale of public lands when money is scarcer than it has ever heretofore been, and thereby to retard the settlement of those lands, at the very time when the state of things which produced the supposed evils of the credit system is rapidly disappearing, which is now most certainly the case, as far as I am informed on the subject? Can it be just to withhold from our fellow-citizens, who have not heretofore purchased any public lands, the oppor-

tunity of doing so upon the same terms that have been allowed to others? Can it be right, merely because others have heretofore purchased injudiciously, during a period of general delusion, to refuse credit to those who may hereafter wish to purchase discreetly, lest they should be tempted to injure themselves, in like manner, when no such delusion exists?

But, said he, it is not my purpose to discuss, at large, the merits of the proposed change. I will, at present, content myself with an effort, merely, to shield the present settlers upon public lands from merciless speculators, whose cupidity and avarice would unquestionably be tempted by the improvements which those settlers have made with the sweat of their brows, and to which they have been encouraged by the conduct of the Government itself; for, though they might be considered as embraced by the letter of the law which provides against intrusions on public lands, yet, that their case has not been considered by the Government as within the mischiefs intended to be prevented is manifest, not only from the forbearance to enforce the law, but from the positive rewards which others, in their situation, have received, by the several laws which have heretofore granted to them the same right of pre-emption which I now wish extended to the present settlers.

The settlements which have been made by this description of our population, so far from injuring in any way the interest of the Government, have in all cases with which I have been acquainted, (and few have had an opportunity of knowing more upon the subject than myself,) actually benefited it, by enhancing the value of the adjoining lands, and increasing the facilities of settling them.

Those settlements have been made with the expectation of acquiring the lands including them, under the existing law. The number and value of such improvements are much greater than they would have been had not certain lands been kept out of market much longer than was reasonably anticipated. None of those settlers have supposed that they would have to pay down more than one-fourth of the purchase money upon the tracts which they wish to buy; few of them will be able to pay more; the most of them have already opened farms, from which they could reasonably calculate upon paying the future instalments as they would become due. And it does appear to me that it would be both cruel and impolitic to disappoint such expectations, by placing those people, so completely as the proposed change would do, in the power of moneyed speculators. To guard against which, and to prevent those serious discontents, if not commotions, which otherwise must take place, I offer the amendment which I now hold in my hand, and which, so far from being calculated to defeat the bill, cannot, if adopted, fail to contribute greatly to its success, by removing some of the most serious and important objections to its passage.

The amendment is as follows:

"*Be it enacted, &c.*, That every person, or the legal representatives of every person, who has actually inhabited and cultivated, and who now resides upon any tract of land lying in any district established for the sale of public lands, which tract is not rightfully claimed by any other person, such person, so residing as aforesaid, or his legal representative, shall be entitled to a preference in becoming the purchaser from the United States of such tract of land, at private sale, upon the same terms and conditions, in every respect, as have heretofore been provided, by law, for the sale of other lands sold at private sale: *Provided*, That no more than one quarter section of land shall be sold to any one individual in virtue of this act, and the same shall be bounded by the sectional and divisional lines run, or to be run, according to law: *Provided, also*, That no lands reserved from sale by former acts, or lands which have been directed to be sold in town lots, shall be sold under this act.

"*Be it further enacted*, That every person claiming a preference in becoming the purchaser of a tract of land in virtue of this act, shall make known his claim by delivering a notice, in writing, to the register of the land office for the district in which the land may lie, wherein he shall particularly designate the quarter section he claims; which notice the register shall file in his office, on receiving twenty-five cents from the person delivering the same. And, in every case where it shall appear to the satisfaction of the register and receiver of public moneys of the land office, that any person, who has delivered his notice of claim, is entitled, according to the provisions of this act, to a preference in becoming the purchaser of a quarter section of land, such person so entitled shall have a right to enter the said quarter section, or half thereof, with the register of the land office, on producing his receipt from the receiver of public moneys for at least one-twentieth part of the purchase money, as in case of other lands sold at private sale: *Provided*, That all lands to be sold under this act, which shall not have been previously exposed to public sale, shall be entered with the register at least two weeks before the time which may be appointed for the commencement of the public sale thereof. And every person, having a right of preference in becoming the purchaser of a tract of land, who shall fail so to make his entry with the register within the time prescribed, his right shall be forfeited, and the land, by him claimed, shall be offered at public sale with the other public lands in the district to which it belongs."

Mr. KING, of New York, observed that, if the change of system were favorable to speculators, he should be found in the negative. But, so far from this being the fact, he considered the change as highly favorable to the poor man; and he argued at some length, that it was calculated to plant in the new country a population of independent, unembarrassed freeholders; that by offering the lands in eighty-acre lots, it would place it in the power of almost every man to purchase a freehold, the price of which could be cleared in three years; that it would cut up speculation and monopoly; that the money paid for the lands would be carried from the State or country from which the purchaser should remove; that it would prevent the accumulation of an alarming debt, which ex-

perience proved never would and never could be paid.

Mr. JOHNSON, of Louisiana, was decidedly opposed to the bill, because he conceived it would be injurious to the interests of Louisiana, and of the nation at large. He argued that the present system had been in existence twenty years; that the people were satisfied with it; that the country had thriven and prospered under it; that the change would operate oppressively on a large class of actual settlers in Louisiana and elsewhere, who ought to be secured by some provisions, &c.

Mr. RUGGLES had no objection to the amendment; but he spoke to show that, if the change took place at all, it ought to be total; that he should oppose the change unless the price was reduced, and the land offered in half-quarter sections, &c.

Mr. JOHNSON, of Kentucky, despaired of defeating the bill here, but expressed his hopes that it would meet its fate in the other House. Mr. J. supported the amendment, and argued at some length against the bill. He contended that no system which the Government had ever adopted had been productive of so much benefit to the nation as that under which the public lands had heretofore been disposed of, &c.

Mr. TRIMBLE replied to certain remarks of Mr. EDWARDS and Mr. JOHNSON, of Louisiana, in reference to the operation of the land system in Ohio, and also in support of the proposed change.

Mr. NOBLE next rose, and entered into a very particular examination of the system, from its commencement, twenty-five years ago, up to the present time, to show the impolicy of the contemplated change, and the propriety of the amendment. He replied at large to Mr. KING and others, to show that it would be easy for speculators and monopolists to combine and destroy competition at the public sale, to purchase up the best lands, and afterwards to extort from the poor an exorbitant price, to bring their purchases into competition with the Government lands, &c.

Mr. KING, of New York, replied, and Mr. NOBLE rejoined; after which—

The question was taken on Mr. EDWARDS' amendment, and negatived as follows:

YEAS.—Messrs. Brown, Edwards, Johnson of Kentucky, Johnson of Louisiana, Logan, Noble, Smith, and Thomas—8.

NAYS.—Messrs. Burrill, Dana, Dickerson, Eaton, Elliot, Gaillard, Hunter, King of Alabama, King of New York, Lanman, Leake, Lowrie, Macon, Miller, Morrill, Otis, Palmer, Parrott, Pleasants, Ruggles, Sandford, Taylor, Trimble, Van Dyke, Walker of Alabama, Williams of Mississippi, Williams of Tennessee, and Wilson—28.

Mr. NOBLE then moved to amend the bill by striking out all that part thereof which provides that the sales shall be made for cash; and leaving that part of the bill which directs the lands to be offered for sale in half-quarter sections.

This motion was negatived, by yeas and nays, 28 to 8, the members present voting precisely as on the preceding question.

Mr. JOHNSON, of Louisiana, offered to amend the bill by inserting a clause, providing substantially that such lands as should not bring the minimum price, should, after remaining unsold a certain number of years, be offered at a less price, and, after the lapse of further time, at a still less price, &c.; which motion he offered on the ground that there was in Louisiana, and elsewhere, a great deal of land which would never bring the minimum price, and that it ought, in due time, to be offered at such a price as would induce its purchase and settlement.

The motion was opposed by Messrs. MELLEN and LANMAN, for the reason chiefly that it would be premature legislation; and that, even if the provision were now necessary, it would be better to bring it forward in a distinct bill, &c. Mr. LEAKE concurred in the expediency of the provision, but not connected with the present bill.

The motion was negatived by a large majority.

The Senate then proceeded to fill the blanks. The first being that left for fixing the period when the new system shall go into operation—

Mr. WILLIAMS, of Mississippi, (chairman of the Land Committee,) moved to fill the blank with the first of July next.

Mr. JOHNSON, of Louisiana, moved to fill it with the first of July, 1821. This motion was negatived; and the blank was then filled, as moved by Mr. WILLIAMS.

Mr. WILLIAMS next moved to fill the blank left for fixing the minimum price of lands, with the sum of one dollar and twenty-five cents; which sum had been agreed on by the Land Committee, as, under existing circumstances, the most fair and reasonable.

Mr. EATON moved to fill the blank with one dollar and fifty cents.

Mr. JOHNSON, of Louisiana, would prefer fixing the price at one dollar only.

Mr. KING, of New York, was opposed to $1 50, and in favor of $1 25; and, after some remarks from each of the gentlemen in support of their different opinions—

The blank was filled with *one dollar and twenty-five cents*, by a large majority.

The bill was then ordered to be engrossed and read a third time as amended.

The bill further suspending the sale or forfeiture of lands, for non-payment, was also taken up, and ordered to be engrossed for a third reading.

Mr. THOMAS gave notice that he should, on Thursday week, ask leave to introduce a bill for giving the right of pre-emption to actual settlers on the public lands.

THURSDAY, March 9.

Public Lands.

The bill making further provision for the sale of public lands was read a third time; and, on the question, "Shall this bill pass?" it was determined in the affirmative—yeas 31, nays 7, as follows:

YEAS.—Messrs. Burrill, Dana, Dickerson, Eaton, Elliot, Gaillard, Hunter, King of Alabama, King of New York, Lanman, Leake, Lowrie, Macon, Mellen, Morrill, Otis, Palmer, Parrott, Pleasants, Roberts, Ruggles, Sanford, Stokes, Taylor, Tichenor, Trimble, Van Dyke, Walker of Alabama, Williams of Mississippi, Williams of Tennessee, and Wilson.

NAYS.—Messrs. Brown, Edwards, Johnson of Kentucky, Johnson of Louisiana, Logan, Noble, and Smith.

So it was resolved that this bill pass, and that the title thereof be, "An act making further provision for the sale of public lands."

The bill further to suspend, for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon, was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John Harding, Giles Harding, John Shute, and John Nicholls, and the blank having been filled with "900," it was reported to the House; and, being concurred in, the Senate adjourned.

MONDAY, March 27.

Relations with Spain.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit to Congress an extract of a letter from the Minister Plenipotentiary of the United States at St. Petersburg, of the 1st of November last, on the subject of our relations with Spain, indicating the sentiments of the Emperor of Russia respecting the non-ratification, by his Catholic Majesty, of the treaty lately concluded between the United States and Spain, and the strong interest which His Imperial Majesty takes in promoting the ratification of that treaty. Of this friendly disposition, the most satisfactory assurance has been since given, directly, to this Government, by the Minister of Russia residing here.

I transmit also to Congress an extract of a letter from the Minister Plenipotentiary of the United States at Madrid, of a later date than those heretofore communicated, by which it appears, that, at the instance of the Chargé des Affaires of the Emperor of Russia, a new pledge had been given by the Spanish Government, that the Minister who had been lately appointed to the United States should set out on his mission without delay, with full power to settle all differences, in a manner satisfactory to the parties.

I have further to state, that the Governments of France and Great Britain continue to manifest the sentiments heretofore communicated, respecting the non-ratification of the treaty by Spain, and to interpose their good offices to promote its ratification.*

It is proper to add, that the Governments of France and Russia have expressed an earnest desire that the United States would take no step, for the present, on the principal of reprisal, which might possibly tend to disturb the peace between the United States and Spain. There is good cause to presume, from the delicate manner in which this sentiment has been conveyed, that it is founded in a belief, as well as a desire, that our just objects may be accomplished without the hazard of such an extremity.

On full consideration of all these circumstances, I have thought it my duty to submit to Congress, whether it will not be advisable to postpone a decision on the questions now depending with Spain, until the next session. The distress of that nation, at this juncture, affords a motive for this forbearance, which cannot fail to be duly appreciated. Under such circumstances, the attention of the Spanish Government may be diverted from its foreign concerns, and the arrival of a Minister here be longer delayed. I am the more induced to suggest this course of proceeding, from a knowledge that, while we shall thereby make a just return to the powers whose good offices have been acknowledged, and increase, by a new and signal proof of moderation, our claims on Spain, our attitude, in regard to her, will not be less favorable at the next session than it is at the present.

JAMES MONROE.

MARCH 27, 1820.

The Message and accompanying documents were read, and one thousand copies thereof ordered to be printed for the use of the Senate.

MONDAY, April 3.

District of Columbia.

The Senate took up the resolution submitted by Mr. JOHNSON of Kentucky, on the 28th ultimo, to inquire into the expediency of giving to the District of Columbia a Delegate on the floor of Congress.

Mr. JOHNSON added a few remarks to what he had said in support of his motion when first submitted.

Mr. KING, of New York, briefly stated his objection to the motion, founded principally on the opinion that this was an inquiry which it was proper, from motives of delicacy, to leave to the other House, as a Delegate, if authorized, would take his seat there; that the people of the District had not asked of Congress this privilege; that it had been given to territories only which looked forward to become independ-

* This interposition on the part of the great powers—Russia, France, and Great Britain—to prevent a rupture between the United States and Spain, and to induce the latter to ratify the treaty which had been signed since February, 1819, presents one of those green spots in history on which the eye of philanthropy delights to dwell. It marks the progress of humane and liberal ideas, and does honor to the powers which thus interposed. At the same time, it is due to Spain to say, that her long delay to ratify the treaty which she had concluded was occasioned by the lawless expeditions fitted out in the United States, in aid of her revolted colonies in the two Americas.

ent members of the Union, and might sanction or give color to an impression that Congress contemplated a similar result, at some time, in this instance.

Mr. JOHNSON replied, to obviate the objections of Mr. KING, and enforce his reasons in favor of the motion; after which the resolution was agreed to—ayes 15, noes 14.

WEDNESDAY, April 19.

The Navy—Seven Small Vessels.

The bill authorizing the building of a certain number of small vessels of war was taken up in Committee of the Whole, where the object of the bill and the necessity of this kind of force was explained by Mr. PLEASANTS, and the blanks being filled, and the bill amended, it was reported to the Senate in the following shape:

Be it enacted, &c., That the President of the United States is hereby authorized to cause to be built and equipped any number of small vessels of war (not exceeding seven) which, in his judgment, the public service may require; the said vessels to be of a force not more than twelve guns each, according to the discretion of the President. And, for carrying this act into effect, the sum of $60,000 is hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated.

The bill was ordered to be engrossed and read a third time, and the Senate adjourned.

THURSDAY, April 20.

Duelling.

The following resolutions, submitted by Mr. MORRILL on the 12th instant, were taken up for consideration:

Resolved, That the practice of duelling is inhuman, immoral, and censurable.

Resolved, That the President of the United States would be justifiable in striking from the rolls of the Army and Navy the names of all persons thereon, who have been, or hereafter may be, directly or indirectly engaged in a duel, or who may have been, or hereafter may be, in any way or manner accessory thereto.

Mr. MORRILL addressed the Chair as follows:

Mr. President, it is with deep regret that I feel myself compelled to ask the attention of the Senate to the consideration of the resolutions which I have had the honor to present. Nothing but an irresistible conviction of propriety, and solemn sense of duty to my God and country, would induce me to offer my views on this occasion; because, I am not insensible of a diversity of opinion, and the reluctance of many to agitate the subject. But, when I reflect upon the attributes of that Divine Being who has created and sustains all worlds and creatures, on whom we are dependent, and unto whom we are under infinite obligations of love and obedience, I cannot persuade myself to refrain. The obvious purposes of our existence as rational beings are too apparent to admit a doubt.

For what end were we created? Certainly not to annoy, murder, and massacre one another; but to aid and assist one another, and, by kind offices and paternal acts, to promote our peace, prosperity, and happiness. Mankind are created moral beings, with capacious powers and faculties of mind, by which they are rendered capable of contemplating sublime subjects, entering into connections, and forming important associations, by which individual and general happiness may be enjoyed and extensively diffused. These being the powers and abilities of the human race, the idea of dependence irresistibly connects with them those of duty and obligation, not only to the Supreme Parent of the Universe, but the several members of the great family of man, of which we are component parts. These are immutable in their nature and eternal in their duration, and cannot be cancelled by pride, ambition, nor caprice.

These being my views, I hope the Senate will pardon me for again introducing the subject—unpleasant in itself, and unpleasant in its consequences. It cannot be forgotten that, some one or two years ago, I had the honor to offer a resolution not materially different from that on your table, which rose from an event similar to that which has given rise to the resolutions now before the Senate. With an accommodating disposition on my part, I consented to vary that resolution to suit the views of honorable gentlemen; but, being committed, it unexpectedly passed off without particular consideration.

During the last session of Congress, at the door of your Capitol, another event of the kind occurred, though not precisely of the same magnitude: some of inferior grade, having caught the fire of honor, must resort to the devoted ground, and there settle the great question of private controversy by single combat, which, fortunately, from agitation or want of skill, terminated gloriously, without wound or bloodshed.

But, Mr. President, at this time something more serious has attracted our attention and excited our feelings. The recent duel between Commodore Decatur and Commodore Barron is the only apology I offer for again introducing this subject.

The sentiments which I entertain are expressed in the resolutions before you, and their connection will induce me, as I proceed, to apply my remarks to them both. That the first resolution contains abstract propositions I admit, and needs but little illustration; but they are no less true and important in themselves, and their bearings upon individuals and community.

Humanity is an exercise of tenderness, benevolence, and kindness, toward our fellow-creatures, by which their wants are relieved, their persons protected, and their prosperity promoted.

The exercise of these is essential to that degree of felicity for which we are completely competent in this life, and which is our duty, and ought to be our object, to attain. These, I

presume, are principles which no contemplative mind will deny.

What is the character of the act by which the life, perhaps the most useful life, is wantonly taken by a fellow-citizen? The tender feelings of the human kind many times recoil to see the tremors of an expiring brute, but what must be their sensations to behold the agonies of death upon one of Heaven's fairest sons, struggling under the pains of dissolution occasioned by the fatal act of a brother of the same family? Callous, indeed, must be the heart, and indifferent those feelings, which do not burst forth in abhorrence and indignation.

Reason, the handmaid of the best faculties of the polished and improved mind, revolts at this act of violence; she retires from the scene, laments the depravity of the human race, and desires to cast the mantle of oblivion over the barbarous acts of deluded man.

Conscience, that judicious inquisitor, enthroned in the breast of our species, unreservedly pronounces guilt, with all its concomitant consequences. No well-informed faculty of the human mind, unbiased by prepossession, will volunteer its aid to sustain the rude deed of violence.

Its only support, then, is found in fallacious arguments, arising from misconceived opinions of human honor.

But, sir, it is contrary to the laws of your army and navy. If it be no crime, nor improper, why have you laws against it, and regulations to prevent it? Is it not repugnant to the universal voice of community? Does not the nation speak one language on this subject? The country proclaims a law irresistible in this case. Where can you find a sentence on the practice, in any of your periodical publications, which does not, directly or indirectly, pronounce a censure on the crime? Some of the States, to arrest the progress of an evil so unjustifiable, have passed laws well calculated to suppress it. Among these is the State of Virginia; and, to the immortal honor of the gentleman (Mr. BARBOUR) whom I now have in my eye, was that bill introduced—an act which I shall ever revere, and which, I hope, will never be forgotten by his State nor his country.

Let the opinion of the Senate, then, be expressed in accordance with that of the civilized world, and thereby aid the cause of humanity and reformation.

The immutable principles of morality reprobate the practice. Every pernicious indulgence, which tends to corrupt society, weakens that community, and enervates the Government. This Government, more than any other, needs the cement of those great moral principles which connects individuals, and unites and binds in one solid fabric the great political body. Knowledge and virtue form the grand basis on which a prosperous republic is erected, and the only ground on which its perpetuity can be justly anticipated; and, in the same proportion, if these are disregarded and neglected, the body politic is contaminated, its vigor reduced, and its existence endangered.

But this practice demoralizes society, as it obscures human reason, darkens the understanding, stupefies the conscience, and sets at defiance the laws of God and man. It undervalues human life, and, by its demoralizing consequences, prepares the way for the commission of murder, assassination, and that train of evils which is the natural result of the worst passions, nourished by pernicious sentiments and habits.

Permit me to bring to your view a remark made respecting the assassination of the Duke de Berri: "Our readers will agree in opinion with the Count de Labourdonnaye, that the atrocious crime is clearly to be traced to those liberal writings, which, in France and England, have aimed at the extinction of all just and moral feelings."

What better can be expected from those who pursue a course in direct violation both of divine and human laws? "Thou shalt not kill," is a divine command; and "Whoso sheddeth man's blood, by man shall his blood be shed."

I am not insensible, sir, that a disquisition on ethics may be cold, insipid, and unpleasant; but, according to my views of the subject, I hope to be indulged to express an opinion.

But, sir, I am disposed to examine the subject in another, and perhaps more acceptable point of light. I wish to have the practice suppressed, because many times the most useful and valuable men are sacrificed. It prevails more generally in the army and navy, and among men high in rank and estimation. Their native talents have been cherished and expanded in the school of their country, by which they are identified with the property, prosperity, and interest of the nation.

The nation has taught and employed them, by which they have acquired that knowledge and skill which render them respected and useful. For this aid, protection, and honor, they are indebted to their country; and this country has a claim to their services, to whom they owe a duty that cannot be cancelled by pride nor vanity. The life and talents of a public officer, thus situated, are not at his own disposal—they are pledged to his country.

These are the men the nation wants—men of tried courage and bravery—that confidence may be inspired in those whom, in the hour of danger, they may command; "a name is often but another word for victory." Are talents thus enlarged and improved the property of the nation; is it not the highest duty of the nation to protect this property, and secure it against invasion? Is not the Government bound to arrest the progress of an evil by which its best blood is lost, and its most important interests threatened? Let the practice continue unmolested, and it acquires countenance, and its votaries strength; and, by imperceptible progress, becomes the common law of the country.

But there is another reason which ought to have influence in this case: The vilest charac-

ters may destroy the best of men. For, on the principles assumed, they are no more exempt than the most base of the human race. The false rules of honor apply with equal force to the useful and the brave, as to him who is worthless and a mere nuisance in society. There is, then, neither safety nor protection where false principles predominate, and are controlled by passion, prejudice, or caprice. Unimportant things, under such influence, impel to the fatal contest; and even things not true, by perversion and misapplication, are made the occasion of dreadful consequences. This is true in the instance to which I have referred. Barron charged Decatur with using certain improper expressions; which, however, Decatur immediately disclaimed; but they were made the occasion of their unhappy meeting. Hence the necessity of the interposition of some effectual remedy to prevent occurrences so destructive and censurable; otherwise you prostrate, at the mercy of the rudest passions which can predominate in the depraved breast, the lives of your most valuable and useful citizens.

If my remarks are not correct, why have you laws and regulations on the subject? And if they are, is it not proper to interpose and make those regulations effectual to accomplish their object? The safety, the interest, and the honor of the country require the adoption of a course which shall bring into contempt the practice of duelling. "For, as a fool dieth, so they die."

It may be said it is not necessary, because the President has power already to strike from the rolls of the army and navy such offenders as he may think proper. Admit the fact; but we are taught from experience that this does not render the expression of an opinion on the subject unimportant. We are too well acquainted with human nature, and the frailty of man, to believe any one will take a responsibility upon himself that he can possibly avoid. Merely from this circumstance, then, there is no reason to calculate upon any important reform. The connection subsisting between the commander-in-chief and the subordinate officers, is of such a nature as to preclude a probability of a radical amendment.

Resolutions on the subject present to the world our views of the practice, at the same time they tend to sustain the President in any course he may be disposed to pursue. This, by dividing the responsibility, relieves the commander-in-chief of a burden, which he must otherwise endure, arising from the discharge of a duty that he owes to himself and his country.

This object cannot be effected by punishment. It is a vain thing to think about shooting or hanging persons for this offence, (more especially if never performed;) death, in any of its most hideous forms, is altogether insufficient to deter him who can be impelled, under any circumstances, to present himself a mark in single combat. No, sir, the practice must be rendered disgraceful; this, and this alone, will be sufficient to preponderate against the fallacious arguments and absurd notions of false honor.

But, Mr. President, I have an additional inducement to revive this subject at this time. Decatur is sacrificed—he is gone! And lamentable to relate, he has fallen a martyr at the shrine of false honor; a victim to principles founded on mistaken notions of true greatness, of real magnanimity of soul. Yes, sir, he who, before the walls of Tripoli, the British Macedonian, and in every instance where skill and courage could be displayed, maintained the independence and glory of the American eagle; he who ranked among the first sons of Neptune, high in his country's esteem, calm and unmoved in danger, collected, manly, and noble in victory, is fallen! But, sir, he considered himself bound by his own rules. Fatal error! "I do not think that fighting duels, under any circumstances, can raise the reputation of any man, and have long since discovered that it is not even an unerring criterion of personal courage. I should regret the necessity of fighting with any man; but, in my opinion, the man who makes arms his profession, is not at liberty to decline an invitation from any person who is not so far degraded as to be beneath his notice. Having incautiously said I would meet you, I will not consider this to be your case, although many think so; and if I had not pledged myself, I might reconsider the case."*

Here we see, with reluctance and regret he repaired to the fatal spot, the devoted field of slaughter; being under an imaginary obligation, by the incautious adoption of erroneous principles, no affection to his family, no love of country, nor attachment to life, with all its enjoyments, was sufficient to outweigh his preconceived opinions: "I am bound by my own rules, to them I must submit." "In my opinion, the man who makes arms his profession is not at liberty to decline an invitation from any person who is not so far degraded as to be beneath his notice."

Decatur is no more—he sleeps in silence! His trophies fade with his countenance, and wither in his death! He is borne to the tomb, the asylum of the dead! The navy and the country sustain a loss which possibly might have been avoided, if such measures had been seasonably adopted as were within the power of the Government.

For a moment reflect on the consequences. See the rolling tears and heart-rending grief of a bosom companion! Imagine the distress of a disconsolate family! Behold the crowd of weeping connections, mourning around the pale, the lifeless corpse!

Is this all? See a weeping country! Behold the footsteps of thousands, watered with tears, marching to the receptacle of the dead! See your ships clad in mourning, and their officers with the badges of lamentation! All this, and more than this, growing out of an event repug-

* Decatur's letter to Barron.

nant to all moral feeling, and censured by every reflecting mind acting in its individual capacity.

Sir, shall we be silent, and not attempt to arrest the progress of an evil thus destructive; an act which fastens reproach upon survivors, and a stigma on posterity? Will you stand an indifferent spectator, and see your officers swept from your army and navy in this ruthless manner, and not say to the devouring despot, "Thou shalt go no further?"

Sir, let a man believe duelling justifiable on any principle, or under any circumstances, and no military glory, no lustre of character, no ardor of friendship, no conjugal affection, no attachment to life, no love of country, and desire to promote its honor and prosperity, will shield him from the deadly combat.

Mr. WILLIAMS, of Tennessee, moved to lay the resolutions on the table, believing, in regard to the first resolution, that it was a waste of time to be arguing abstract propositions; that in regard to the second, the President already had the power vested in him by law to do what was proposed; and that if he had neglected to execute the law, and it was intended to take any step in relation to it, he ought to be approached in a different way.

The motion prevailed, without a division, and the resolutions were ordered to lie on the table accordingly.

SATURDAY, May 13.

Kidnapping, and Slave Trade, Piracy.

The Senate proceeded to the consideration of the amendments of the House of Representatives to the bill "to continue in force the act to protect the commerce of the United States, and punish the crime of piracy, and also to make further provision for punishing the crime of piracy."

The amendments (which were reported in the other House, by Mr. MERCER, from the Committee on the Slave Trade) are as follows:

And be it further enacted, That, if any citizen of the United States, being of a crew or ship's company of any foreign ship or vessel engaged in the slave trade, or any person whatever, being of the crew or ship's company of any ship or vessel owned in whole or in part, or navigated for, or in behalf of, any citizen of the United States, shall land, from any such ship or vessel, and, on any foreign shore, seize any negro or mulatto, not held to service or labor by the laws of either of the States or Territories of the United States, with intent to make such negro or mulatto a slave, or shall decoy or forcibly bring or carry, or shall receive, such negro or mulatto on board any such ship or vessel, with intent, as aforesaid, such citizen or person shall be adjudged a pirate, and, on conviction thereof, before the circuit court of the United States for the district wherein he may be brought or found, shall suffer death.

And be it further enacted, That, if any citizen of the United States, being of the crew or ship's company of any foreign ship or vessel engaged in the slave trade, or any person whatever, being of the crew or ship's company of any ship or vessel owned wholly, or in part, or navigated for, or in behalf of, any citizen or citizens of the United States, shall forcibly confine or detain, or aid and abet in forcibly confining or detaining, on board such ship or vessel, any negro or mulatto, not held to service by the laws of either of the States or Territories of the United States, with intent to make such negro or mulatto a slave, or shall, on board any such ship or vessel, offer or attempt to sell, as a slave, any negro or mulatto, not held to service, as aforesaid, or shall, on the high seas, or anywhere on tide water, transfer or deliver over to any other ship or vessel, any negro or mulatto, not held to service, as aforesaid, with intent to make such negro or mulatto a slave, or shall land or deliver on shore from on board any such ship or vessel, any such negro or mulatto, with intent to make sale of, or having previously sold, such negro or mulatto, as a slave, such citizen or person shall be adjudged a pirate, and, on conviction thereof, before the circuit court of the United States for the district wherein he shall be brought or found, shall suffer death.

After some discussion, rather on the form than the substance of these amendments, they were agreed to, without a division.

MONDAY, May 15.

The Senate having finished the business before them, or rather so much thereof as had been reported by the joint committee as necessary to be acted on; and, having been informed by the committee appointed to wait on the President, that he had no further communication to make, the Senate adjourned to the second Monday in November next.

SIXTEENTH CONGRESS.—FIRST SESSION.

PROCEEDINGS AND DEBATES

IN

THE HOUSE OF REPRESENTATIVES.*

MONDAY, December 6, 1819.

This being the day appointed by the Constitution of the United States for the meeting of Congress, the following members of the House of Representatives appeared, produced their credentials, and took their seats, to wit:

From New Hampshire—Joseph Buffum, jr., Josiah Butler, Clifton Clagett, Arthur Livermore, William Plumer, jr., and Nathaniel Upham.

From Massachusetts—Benjamin Adams, Samuel C. Allen, Joshua Cushman, Edward Dowse, Walter Folger, jr., Mark L. Hill, John Holmes, Jonas Kendall, Martin Kinsley, Samuel Lathrop, Enoch Lincoln, Jonathan Mason, Marcus Morton, Jeremiah Nelson, James Parker, Gabriel Sampson, Henry Shaw, Nathaniel Silsbee, and Ezekiel Whitman.

From Rhode Island—Samuel Eddy, and Nathaniel Hazard.

From Connecticut—Henry W. Edwards, Samuel A. Foot, Jonathan O. Mosely, Elisha Phelps, John Russ, James Stevens, and Gideon Tomlinson.

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* LIST OF REPRESENTATIVES.

New Hampshire.—Joseph Buffum, jr., Josiah Butler, Clifton Clagett, Arthur Livermore, William Plumer, jr., Nathaniel Upham.

Massachusetts.—Benjamin Adams, Samuel C. Allen, Joshua Cushman, Edward Dowse, Walter Folger, jr., Timothy Fuller, Mark Langdon Hill, John Holmes, Jonas Kendall, Martin Kinsley, Samuel Lathrop, Enoch Lincoln, Jonathan Mason, Marcus Morton, Jeremiah Nelson, James Parker, Gabriel Sampson, Henry Shaw, Nathaniel Silsbee, Ezekiel Whitman.

Rhode Island.—Samuel Eddy, Nathaniel Hazard.

Connecticut.—Henry W. Edwards, Samuel A. Foot, Jonathan O. Mosely, Elisha Phelps, John Russ, James Stevens, Gideon Tomlinson.

Vermont.—Samuel C. Crafts, Ezra Meech, Orsamus C. Merrill, Charles Rich, Mark Richards, William Strong.

New York.—Nathaniel Allen, Caleb Baker, Walter Case, Robert Clark, Jacob H. Dewitt, John D. Dickinson, John Fay, William D. Ford, Ezra C. Gross, Aaron Hackley, jr., George Hall, Joseph S. Lyman, Henry Meigs, Robert Monell, Harmanus Peek, Nathaniel Pitcher, Solomon Van Rensselaer, Jonathan Richmond, Henry R. Storrs, Randall A. Street, James Strong, John W. Taylor, Caleb Tompkins, Albert H. Tracy, Peter H. Wendover, Silas Wood.

New Jersey.—Ephraim Bateman, Joseph Bloomfield, Charles Kinsey, John Linn, Bernard Smith, Henry Southard.

Pennsylvania.—Henry Baldwin, Andrew Boden, William Darlington, George Dennison, Samuel Edwards, Thomas Forrest, David Fullerton, Samuel Gross, Joseph Heister, Joseph Hemphill, Jacob Hibshman, Jacob Hostetter, William P. Maclay, David Marchand, Robert Moore, Samuel Moore, John Murray, Thomas Patterson, Robert Philson, Thomas J. Rogers, John Sergeant, Christian Tarr, James Wallace.

Delaware.—Willard Hall, Louis McLane.

Maryland.—Stephenson Archer, Thomas Bayley, Thomas Culbreth, Joseph Kent, Peter Little, Raphael Neale, Samuel Ringgold, Samuel Smith, Henry W. Warfield.

Virginia.—Mark Alexander, William Lee Ball, Philip P. Barbour, William A. Burwell, John Floyd, Robert S. Garnett, James Johnson, James Jones, William McCoy, Charles Fenton Mercer, Hugh Nelson, Thomas Newton, Severn E. Parker, James Pindall, James Pleasants, John Randolph, Alexander Smyth, Ballard Smith, George F. Strother, George Tucker, John Tyler, Thomas Van Swearingen, Jared Williams.

North Carolina.—Hutchins G. Burton, John Culpeper, William Davidson, Weldon N. Edwards, Charles Fisher, Thomas H. Hall, Charles Hooks, Lemuel Sawyer, Thomas Settle, Jesse Slocumb, James S. Smith, Felix Walker, Lewis Williams.

South Carolina.—Joseph Brevard, Elias Earle, James Ervin, William Lowndes, John McCreary, James Overstreet, Charles Pinckney, Eldred Simkins, Sterling Tucker.

Georgia.—Joel Abbott, Thomas W. Cobb, Joel Crawford, John A. Cuthbert, Robert W. Reid, William Terrell.

Kentucky.—Richard C. Anderson, jr., William Brown, Henry Clay, Benjamin Hardin, Alney McLean, Thomas Metcalfe, Tunstall Quarles, George Robertson, David Trimble, David Walker.

Tennessee.—Robert Allen, Henry H. Bryan, Newton Cannon, John Cocke, Francis Jones, John Rhea.

Ohio.—Philemon Beecher, Henry Brush, John W. Campbell, Samuel Herrick, Thomas R. Ross, John Sloan.

Louisiana.—Thomas Butler.

Indiana.—William Hendricks.

Mississippi.—Christopher Rankin.

Alabama.—John Crowell.

Illinois.—Daniel P. Cook.

Missouri Territory.—John Scott, *Delegate.*

Michigan Territory.—William W. Woodbridge, *Delegate.*

From Vermont—Samuel C. Crafts, Orsamus C. Merrill, Charles Rich, Mark Richards, and William Strong.

From New York—Nathaniel Allen, Caleb Baker, Walter Case, Robert Clark, Jacob H. Dewitt, John D. Dickinson, John Fay, William D. Ford, Ezra C. Gross, Aaron Hackley, jun., George Hall, Joseph S. Lyman, Henry Meigs, Robert Monell, Harmanus Peck, Nathaniel Pitcher, Jonathan Richmond, Henry R. Storrs, Randall A. Street, James Strong, John W. Taylor, Caleb Tompkins, Albert H. Tracy, Solomon Van Rensselaer, Peter H. Wendover, and Silas Wood.

From New Jersey—Ephraim Bateman, Joseph Bloomfield, John Linn, Bernard Smith, and Henry Southard.

From Pennsylvania—Henry Baldwin, William Darlington, Samuel Edwards, Thomas Forrest, David Fullerton, Samuel Gross, Joseph Hemphill, Jacob Hibshman, Joseph Heister, Jacob Hostetter, William P. Maclay, David Marchand, Robert Moore, Samuel Moore, John Murray, Thomas Patterson, Thomas J. Rogers, John Sergeant, Christian Tarr, and James Wallace.

From Delaware—Louis McLane.

From Maryland—Stevenson Archer, Thomas Culbreth, Joseph Kent, Peter Little, Raphael Neale, Samuel Ringgold, Samuel Smith, and Henry R. Warfield.

From Virginia—Mark Alexander, William Lee Ball, Philip P. Barbour, William A. Burwell, John Floyd, Robert S. Garnett, James Jones, William McCoy, Charles F. Mercer, Hugh Nelson, Thomas Newton, Severn E. Parker, James Pindall, James Pleasants, Alexander Smyth, George F. Strother, George Tucker, John Tyler, Thomas Van Swearingen, and Jared Williams.

From North Carolina—Hutchins G. Burton, John Culpeper, Charles Fisher, Thomas H. Hall, James S. Smith, Felix Walker, and Lewis Williams.

From South Carolina—Joseph Brevard, John McCreary, James Overstreet, Charles Pinckney, Eldred Simkins, and Sterling Tucker.

From Georgia—Joel Abbot, Thomas W. Cobb, Joel Crawford, and Robert W. Reid.

From Kentucky—Richard C. Anderson, jun., William Brown, Henry Clay, Alney McLean, Thomas Metcalfe, Tunstall Quarles, George Robertson, David Trimble, and David Walker.

From Tennessee—Robert Allen, Henry H. Bryan, Newton Cannon, John Cocke, Francis Jones, and John Rhea.

From Ohio—Philemon Beecher, Henry Brush, John W. Campbell, Samuel Herrick, Thomas R. Ross, and John Sloan.

From Indiana—William Hendricks.

From Mississippi—Christopher Rankin.

From Illinois—Daniel P. Cook.

The House then proceeded to the choice of a Speaker, by ballot; and the ballots having been counted by Mr. Pleasants and Mr. Mosely, it appeared that the whole number of votes given in was 155, of which there were,

For Henry Clay, of Kentucky -	147
Scattering votes - - - - -	8

So that Mr. Clay was duly elected Speaker of the House of Representatives. He was accordingly conducted to the Chair by Mr. Pleasants and Mr. Mosely, and the oath of office was administered to him by Mr. Newton.

When Mr. Clay, the Speaker elect, addressed the House as follows:

Gentlemen: Again called, by your favorable opinion, to the distinguished station to which I have been frequently assigned by that of your predecessors, I owe to you the expression of my most respectful thanks; and I pray you to believe that I feel inexpressible gratitude, as well for the honor itself, as for the flattering manner in which it has been conferred. In our extensive Confederacy, gentlemen, embracing such various and important relations, it must necessarily happen that each successive session of the House of Representatives will bring with it subjects of the greatest moment. During that which we are now about to open, we have every reason to anticipate that the matters which we shall be required to consider, and to decide, possess the highest degree of interest. To give effect to our deliberations; to enable us to command the respect of those who may witness or be affected by them; and to entitle us to the affection and confidence of our constituents, the maintenance of order and decorum is absolutely necessary. Being quite sure that your own comfort, your sense of propriety, and the just estimate which you must make of the dignity which belongs to this House, will induce you to render to the Chair your cordial co-operation; I proceed to discharge its duties with the sincere assurance of employing my best exertions to merit the choice which you have been pleased to make. And it will be to me the greatest happiness, if I should be so fortunate as to satisfy, in this respect, your expectations.

The members were then called over by States, and severally sworn to support the Constitution of the United States.

The House proceeded to the choice of a Clerk, and, on motion, Thomas Dougherty was appointed, *nem. con.*

In like manner, Thomas Dunn was appointed Sergeant-at-Arms, Thomas Claxton Doorkeeper, and Benjamin Burch Assistant Doorkeeper to the House.

John Scott appeared, produced his credentials, was qualified, and took his seat as the delegate from the Territory of Missouri.

Tuesday, December 7.

Several other members, to wit: from Pennsylvania, George Dennison; from Virginia, Ballard Smith; and from Georgia, William Terrill, appeared, produced their credentials, were qualified, and took their seats.

Wednesday, December 8.

Several other members, to wit: from Virginia, Jas. Johnson and John Randolph; from North Carolina, William Davidson, Charles Hooks, Jesse Slocumb, and Thomas Settle; and from South Carolina, William Lowndes, appeared, produced their credentials, were qualified, and took their seats.

Missouri State Government.

On motion of Mr. SCOTT, the several memorials of the Legislature of the Territory of Missouri, and of the inhabitants of the said Territory, presented to the House at the last session of Congress, relative to the admission of that Territory into the Union as a separate and independent State, were referred to a select committee; and Messrs. SCOTT, ROBERTSON, TERRILL, STROTHER, and DEWITT, were appointed the said committee.

Mr. STRONG, of New York, gave notice that on to-morrow he should ask leave to introduce a bill to prohibit the further extension of slavery within the Territories of the United States.

State of Alabama.

The resolution from the Senate, declaring the admission of the State of Alabama into the Union on an equal footing with the original States, was twice read. With considerable opposition as to the day on which it should be read a third time, to-day was determined on, and it was read a third time, finally passed without a division, and returned to the Senate. [The yeas and nays were required on its passage, but the requisition was not sustained by one-fifth of the House, the necessary number.]

THURSDAY, December 9.

Two other members, to wit: from Pennsylvania, ANDREW BODEN, and from North Carolina, WELDON N. EDWARDS, appeared, produced there credentials, were qualified, and took their seats.

The SPEAKER presented a memorial and petition of Matthew Lyon, formerly a Representative in Congress from the State of Vermont, detailing the circumstances attending his prosecution for sedition in the year 1798, and complaining of the unconstitutionality of the act under which he was prosecuted; of illegality in the proceedings of the court before whom he was tried and convicted; of the fine he was compelled to pay, and the imprisonment he suffered; and also setting forth the iniquity of the motives which prompted the said prosecution, which he declares was solely occasioned by the honest expression of his political sentiments; and praying that the amount of the fine, with the interest thereon, may be repaid to him, together with such sum as Congress may think a just and proper indemnity for his being dragged from his home, his family, friends, and business, and thrown into a dark and loathsome dungeon, where he suffered for four months every species of hardship, cruelty, and indignity, which could be devised by the unrelenting and persecuting spirit of those by whom he was persecuted. Referred to the Committee on the Judiciary.

FRIDAY, December 10.

Another member, to wit, from Massachusetts, TIMOTHY FULLER, appeared, produced his credentials, was qualified, and took his seat.

WILLIAM W. WOODBRIDGE also appeared, produced his credentials, was qualified, and took his seat, as the delegate from the Territory of Michigan.

MONDAY, December 13.

Two other members, to wit: from South Carolina, ELIAS EARLE, and from Georgia, JOHN A. CUTHBERT, appeared, produced their credentials, were qualified, and took their seats.

Report on the Finances.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting his annual report upon the state of the finances; which was read, and ordered to lie on the table. The report is as follows:

TREASURY DEPARTMENT, *Dec.* 10, 1819.

SIR: I have the honor to transmit herewith a report, prepared in obedience to the act, entitled "An act to establish the Treasury Department."

I have the honor to be, very respectfully, &c.

WM. H. CRAWFORD.

The Hon. the PRESIDENT *of the Senate.*

In obedience to the directions of the "Act supplementary to the act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following report:

1st. *Of the Revenue.*

The net revenue arising from duties upon imposts and tonnage, internal duties, direct tax, public lands, postage, and other incidental receipts, during the year 1815, amounted to $49,556,642 76, viz:

Customs, (see statement A.) - -	$36,306,022 50
Internal duties - - - -	5,963,225 88
Direct tax - - - - -	5,723,152 25
Public lands - - - -	1,287,959 28
Postage, and other incidental receipts	275,282 84

That which accrued from the same sources during the year 1816, amounted to $36,657,904 72, viz:

Customs, (see statement A.) - -	$27,484,100 36
Internal duties - - - -	4,396,133 25
Direct tax - - - - -	2,785,343 20
Public lands - - - -	1,754,487 38
Postage, and other incidental receipts	237,840 53

That which accrued from the same sources during 1817, amounted to $24,365,227 34, viz:

Customs, (see statement A.) - -	$17,524,775 15
Internal duties - - - -	2,676,882 77
Direct tax - - - - -	1,833,737 04
Public lands, (exclusive of Mississippi stock) - - - - -	2,015,977 00
Postage, and other incidental receipts	313,855 38

And that which accrued from the same sources during the year 1818, amounted to $26,095,200 65, viz:

Customs, (see statement A.) - -		$21,828,451 48
Arrears of internal duties, (see statement B.) - - - - - -		947,946 33
Arrears of direct tax, (see statement B.) - - - - - -		263,926 01
Public lands, exclusive of Mississippi stock, (see statement C.) - -		2,464,527 90
Postage, dividends on bank stock, and other incidental receipts, (see statement B.) - - - - - -		590,348 93

It is ascertained that the gross amount of duties on merchandise and tonnage, which have accrued during the three first quarters of the present year, exceeds $18,000,000.

And the sales of public lands during the same period, have exceeded $8,700,000.

The payments into the Treasury during the three first quarters of the year, are estimated to amount to, (inclusive of $169,594 07 in Treasury notes)— $19,550,607 17

Customs - - -	$15,604,081 58	
Public lands, (exclusive of Mississippi stock) - - -	2,858,556 61	
Arrears of internal duties - - -	195,531 02	
Arrears of direct tax	72,880 24	
First instalment payable by U. S. Bank	500,000 00	
First dividend on the U. S. shares in the U. S. Bank - -	175,000 00	
Incidental receipts -	59,095 43	
Repayments - -	85,462 29	
And the payments into the Treasury during the 4th quarter of the year, from the same sources, are estimated at - - - - - -		5,000,000 00
Making the whole amount estimated to be received into the Treasury, during the year 1819, (exclusive of $169,594 07 in Treasury notes) -		24,381,013 10
Which, added to the balance in the Treasury on the 1st day of January last, (exclusive of $32,155 51 in Treasury notes,) amounting to -		1,446,371 23
Makes the aggregate amount of		$25,827,384 33

The application of this sum for the year 1819, is estimated as follows, viz:

To the 30th of September the payments, (exclusive of $81,161 79 in Treasury notes, which had been drawn from the Treasury and cancelled,) amounted to - -		$18,192,387 43
Civil, diplomatic, and miscellaneous expenses - -	2,544,612 98	
Military service, (including arrearage) -	7,665,961 72	
Naval service, (including the permanent appropriation for the gradual increase of the navy) - -	3,527,640 42	
Public debt, (exclusive of $81,161 79 in Treas'y notes, above mentioned) - -	4,454,172 31	
During the fourth quarter it is estimated that the payments, (exclusive of $120,587 79 in Treasury notes, which will be drawn from the Treasury and cancelled,) will amount to Viz:		7,300,000 00
Civil, diplomatic, and miscellaneous expenses - - -	$500,000	
Military service - -	$1,530,000	
Naval service - -	300,000	
Public debt to the 1st of Jan., 1820, (exclusive of $120,587 79 in Treasury notes, above mentioned) - -	4,970,000	
Making the aggregate amount, (exclusive of $201,749 58 in Treasury notes, drawn from the Treasury and cancelled,) of - - -		25,492,387 43
And leaving on the 1st of Jan., 1820, a balance in the Treasury, estimated at - - - - - -		$334,996 90

2d. *Of the Public Debt.*

The funded debt which was contracted before the year 1812, and which was unredeemed on the first day of Oct., 1818, (as appears by statement I,) amounted to - - -	$29,681,280 07
And that contracted subsequently to the 1st day of January, 1812, and unredeemed on the 1st of October, 1818, as appears by the same statement, amounted to - - -	68,146,039 84
Making the aggregate amount of -	97,827,319 91
Which sum agrees with the amount stated in the last annual report, as unredeemed on the 1st October, 1818, excepting the sum of $1,885 13, which was then short estimated, and which has since been corrected by actual settlement.	
On the 1st day of January there was added to the amount, for Treasury notes brought into the Treasury and cancelled, and for which the following stock was issued:	
In 6 per cent. stock - $49,024 71	
In 7 per cent. stock - 2,646 00	51,670 71
Making -	$97,878,990 62
From which deduct Louisiana six per cent. stock, reimbursed on the 21st of October, 1818 - $4,977,950 00	
And deferred stock reimbursed between the 1st Oct, 1818, and 1st. Jan., 1819 252,863 27	5,230,813 27
Making the public debt, which was unredeemed on the 1st Jan., 1819, (as appears by statement 2,) am't to - - - - - -	92,648,177 35

From the 1st of January to the 30th September inclusive, there was, by funding Treasury notes, and issuing 3 per cent. stock, for interest on old registered debt, added to the public debt, (as appears by statement 3,) the amount of - -		36,135 59
		$92,684,312 94
From which deduct the amount of stock purchased during that period, (as appears by statement 4)—	$711,957 55	
And the estimated reimbursement of deferred stock - - -	243,827 88	
		955,785 43
Making, on the 1st of October, 1819, (as appears by statement 3,) the sum of - - - - -		$91,728,527 51
Since the 30th of September there has been redeemed, or provision made for the redemption of 54 per cent. of the Louisiana stock, unpaid on the 1st October, 1819, amounting to - - -	$2,601,817 15	
And there will be reimbursed of the principal of the deferred 6 per cent. stock, on the 1st Jan., 1820	241,506 70	
		2,843,323 85
Leaving the public debt unredeemed on the 1st January, 1820, by estimate - - - - - -		$88,885,203 66
The Treasury notes in circulation are estimated, (as appears by statement 5,) at - - - - - -		$181,821 00
The whole of the awards made by the commissioners appointed under the several acts of Congress for indemnifying certain claimants of public lands, (as appears by statement 6,) amounts to		$4,282,151 12
Of which there has been received at the office of the Commissioner of the General Land Office, (as appears by statement C,) the sum of		2,372,574 31
Leaving outstanding, at the dates of the several returns from the land districts - - - - -		$1,909,576 81

3. *Of the Estimates of the Public Revenue and Expenditures for the year* 1820.

In presenting the estimate for the year 1820, it may be proper to observe, that, when the internal duties were repealed, on the 31st of December, 1817, the permanent revenue, including those duties, was estimated at $24,525,000, while the annual authorized expenditure was ascertained to be less than the sum of $22,000,000. The repeal of the internal duties reduced the former to $22,625,000, while the payments from the Treasury, during the year 1818, exceeded $26,000,000; and those of the present year will, probably, fall but little short of $25,500,000.

In the annual report of the Treasury of the 21st of November, 1818, the receipts for the present year were estimated at $24,220,000. Although this estimate will be realized in its general result, deficiencies have been ascertained in the customs, the internal duties and direct tax, the bank dividends and the postage of letters. The deficiency which has occurred in the customs, internal duties, and direct taxes, will probably augment, in nearly the same degree, the receipts from those sources in the year 1820, by the payment of the revenue bonds, and of that portion of the internal duties and direct taxes, which, if the accustomed punctuality had been observed, would have been received during the present year. But it is probable that the receipts of that year will be diminished by the non-payment of the bank dividends, and by the application of a portion of the proceeds of the public lands to the redemption of the outstanding Mississippi stock. The receipts for the year 1820, applicable to the ordinary and current demands upon the Treasury, may therefore be estimated at twenty-two millions of dollars, viz:

Customs - - - - -	$19,000,000 00
Public lands - - - - -	2,000,000 00
Arrears of internal duties and direct tax - - - - - - -	450,000 00
Second instalment due by the United States Bank - - - -	500,000 00
Incidental receipts - - - -	50,000 00
Which, with the sum estimated to be in the Treasury on the 1st of January, 1820 - - - -	334,996 90
Make the aggregate amount of	$22,334,996 90

The estimates of the expenditure for the year 1820 are not yet complete; but it is ascertained from those which have already been received, that a sum not less than $27,000,000 will be required for the service of that year. This deficit of nearly $5,000,000, resulting from the excess of expenditure beyond the receipts, cannot be supplied by any application of the ordinary revenue. After paying the interest and reimbursement of the public debt, and redeeming the remainder of the Louisiana stock, about $2,500,000 of the Sinking Fund will remain without application, if the price of the public stocks should continue above the prices at which the Commissioners of the Sinking Fund are authorized to purchase. During the years 1821, 1822, and 1823, the average sum of $5,000,000 of the Sinking Fund will also remain without application, if the price of the public stock should prevent its purchase. Any application of that portion of the Sinking Fund, which, on account of the price of the public stock, may remain unemployed in the hands of the Commissioners of the Sinking Fund, to other branches of the public service, if allowable under the provisions of the act making the appropriation, would only postpone the period at which additional impositions would be required to meet the public expenditure. Such an application would also have the effect of ultimately retarding the redemption of the public debt.

It may be proper to add, that, although some of the items in the estimate for the ensuing year may be considered in their nature temporary, yet it is probable that the estimate for succeeding years will exceed rather than fall below it.

Under all the circumstances, it is respectfully submitted, that the public interest requires that the revenue be augmented, or that the expenditure be diminished.

Should an increase of the revenue be deemed expedient, a portion of the deficit may be supplied by an addition to the duties now imposed upon various articles of foreign merchandise, and by a reasonable duty upon sales at public auction; but it is not probable that any modification of the existing tariff can supersede the necessity of resorting to internal taxation if the expenditure is not diminished. Should Congress deem it expedient to modify the present rate of duties, with a view to afford that protection to our cotton, woollen, and iron manufactures, which is necessary to secure to them the domestic market, the necessity of resorting to a system of internal taxation will be augmented. It is believed that the present is a favorable moment for affording efficient protection to that increasing and important interest, if it can be done consistently with the general interest of the nation. The situation of the countries from whence our foreign manufactures have been principally drawn, authorizes the expectation, that, in the event of a monopoly of the home market being secured to our cotton and woollen manufactures, a considerable portion of the manufacturing skill and capital of those countries will be promptly transferred to the United States, and incorporated into the domestic capital of the Union. Should this expectation be realized, the disadvantages resulting from such a monopoly would quickly disappear. In the mean time, it is believed that a system of internal taxation would be severely felt by the great mass of our citizens.

Whether the revenue be augmented, or the expenditure be diminished, a loan to some extent will be necessary. The augmentation of the one, or the diminution of the other, cannot be effected in sufficient time to prevent this necessity. As the six per cent. stock of the United States is considerably above par, the sum required to be raised by loan can be conveniently and advantageously obtained by the sale of stock of that description, or it may be obtained by the issue of Treasury notes. If the revenue and expenditure shall be equalized, the issue of Treasury notes, not bearing interest, is recommended in preference to the creation or sale of stock, as the loan, in that event, will be small in amount, and temporary in its nature.

All which is respectfully submitted.

WM. H. CRAWFORD.

TUESDAY, December 14.

Another member, to wit, from Kentucky, BENJAMIN HARDIN, appeared, produced his credentials, and took his seat.

Mr. JOHN CROWELL, the Representative from the State of Alabama, also appeared, produced his credentials, was qualified, and took his seat.

Restriction of Slavery in Territories.

Mr. TAYLOR, of New York, said he rose to invite the attention of the House to a subject of very great moment. The question of slavery in the territories of the United States west of the Mississippi, it was well known, had at the last session of Congress excited feelings, both in the House and out of it, the recurrence of which he sincerely deprecated. All who love our country, and consider the Union of these States as the ark of its safety, must ever view with deep regret sectional interests agitating our national councils. Mr. T. said he could not himself, nor would he ask others, to make a sacrifice of principle to expediency. He could never sanction the existence of slavery where it could be excluded consistently with the constitution and public faith. But it ought not to be forgotten that the American family is composed of many members; if their interests are various, they mutually must be respected; if their prejudices are strong, they must be treated with forbearance. He did not know whether conciliation were practicable, but he considered the attainment worthy of an effort. He was desirous that the question should be settled in that spirit of amity and brotherly love which carried us through the perils of a Revolution, and produced the adoption of our Federal Constitution. If the resolution he was about to introduce should be sanctioned by the House, it was his purpose to move a postponement of the Missouri bill to a future day, that this interesting subject, in relation to the whole Western territory, may be submitted to the consideration of a committee. Mr. T. then introduced the following resolution:

"*Resolved*, That a committee be appointed to inquire into the expediency of prohibiting by law the introduction of slaves into the territories of the United States west of the Mississippi."

Mr. STROTHER made a few remarks, the purport of which was, that, although the question was already before the House, as involved in the bill for the admission of the Missouri Territory into the Union, yet, when a proposition was made having for its object a compromise of conflicting opinions, it became members to meet it in a spirit of harmony. He proposed, however, that the proposition should lie on the table till to-morrow, to give time for reflection on it.

Mr. TAYLOR assenting to this course, the motion was ordered to lie on the table.

WEDNESDAY, December 15.

Two other members, to wit: from Maryland, THOMAS BAYLY, and from South Carolina, JAMES ERVIN, appeared, produced their credentials, were qualified, and took their seats.

A message was received from the PRESIDENT OF THE UNITED STATES, which was read, and is as follows:

To the Senate of the United States:

In conformity with the resolution of the House of Representatives of the 24th of February last, I now transmit a report of the Secretary of State, with extracts and copies of several letters, touching the causes of the imprisonment of William White, an American citizen, at Buenos Ayres.

JAMES MONROE.

WASHINGTON, 14*th December*, 1819.

Restriction of Slavery in Territories.

On motion of Mr. TAYLOR, of New York, the House proceeded to the consideration of the resolution yesterday offered by him, in the words following, to wit:

Resolved, That a committee be appointed to inquire into the expediency of prohibiting by law the introduction of slaves into the territories of the United States west of the Mississippi.

Mr. TAYLOR said it was not his purpose to go into any discussion of the merits of this proposition; nor, he believed, would any discussion assist the end he had in view. If a compromise of opposite opinions was to be effected, it appeared to him better that a committee should be appointed to examine into it, and make their report; and that the question should not be moved in this House until that committee should have expended their best efforts on this object.

The question was then taken, without debate, on agreeing to the resolution, and decided in the affirmative, without a division. A committee of seven members was ordered to be appointed accordingly; and Messrs. TAYLOR, LIVERMORE, BARBOUR, LOWNDES, FULLER, HARDIN, and CUTHBERT, were appointed a committee pursuant to the said resolution.

Mr. TAYLOR then moved to postpone, until the first Monday in February next, the order of the day on the bill authorizing a convention of the people of Missouri for the purpose of forming a constitution and State government.

Mr. LOWDNES said he thought the day which was proposed for the postponement was too distant; and that the question whether any compromise could be effected might be decided in a much less time than that. He could hardly suppose that the glimpse of the possibility of a compromise, which had appeared, ought to induce the House so long to postpone the consideration of this measure. He did not desire to act on the subject immediately, but wished it to lie on the list of orders of the day until the House was ready to take it up.

Mr. SCOTT, delegate from Missouri, said he hoped that the proposition to postpone till the first Monday of February would not succeed. It was of vast importance to the people of Missouri that an immediate decision should be made on this question. If the bill passed at an early day, the people would then have time to meet in convention, form their constitution, organize their government, elect members to a general assembly, on whom it would devolve to choose Senators to the Congress of the United States. If, on the other hand, the bill ultimately was lost, it was equally necessary that the people should be soon apprised of its failure, that they might have time to act for themselves, and frame a form of government, which he was convinced they would do, without waiting to again apply to Congress for the mere means of organization. The resolution which had been adopted furnished no good reason for the postponement, because it only proposed an inquiry into the expediency of the measure in relation to the Territories, and could not control the constitutional inquiry and right of the people of Missouri to form their constitution as a State.

Mr. TAYLOR replied. With regard to the prospect of success to his proposition, he could only say, without knowing the opinion of any other member, that he had a sincere disposition to accomplish the object of the proposition he had submitted. And, should he fail of his object, it appeared to him the first Monday in February would be time enough to commence what he feared would be a most unprofitable and unproductive discussion. With respect to the people of Missouri, Mr. T. said it would be time enough for them, he presumed, after the first Monday in February, or even after they learnt the decision of this House, to elect a convention and form a constitution without the authority of Congress.

Mr. MERCER, of Virginia, was opposed to so long a postponement as was proposed; because, the Territory possessing the requisite population, &c., every moment's delay, considering the practice of the Government heretofore, was an infraction of its rights. Mr. M. particularly desired, when this question was taken up, that it should not be by surprise, in such manner as to deprive gentlemen of the opportunity of expressing their opinions on it. He himself had, he said, at the last Congress, taken some pride in recording his vote against the introduction of slaves into the Territories of the United States, because that measure was within the fair scope of the legislative power. At the same time, he considered it inconsistent with the most solemn obligations to respect the constitution, for Congress to clog the admission of any independent State into the Union with any condition whatever, except that the constitution formed for its government should be republican. He concluded by moving the 2d Monday of January as the day to which the bill should be postponed.

And, on the question, the order of the day on the Missouri bill was postponed to the second Monday in January.

THURSDAY, December 16.

Two other members, to wit: from Vermont, EZRA MEECH, and from Delaware, WILLARD HALL, appeared, produced their credentials, were qualified, and took their seats.

WEDNESDAY, December 22.

Another member, to wit, from Pennsylvania, ROBERT PHILSON, appeared, produced his credentials, was qualified, and took his seat.

MONDAY, December 27.

Another member, to wit, from Louisiana, THOMAS BUTLER, appeared, produced his credentials, was qualified, and took his seat.

WEDNESDAY, December 29.

Restriction of Slavery in Territories.

Mr. TAYLOR, of New York, rose and stated, that he was instructed by the committee to whom had been referred the resolution of the

15th instant, directing an inquiry into the expediency of prohibiting the extension of slavery in the Territories of the United States, to ask to be discharged from the further consideration of the subject. Mr. T. gave as a reason for his motion, that the committee had found that, after a free interchange of opinions, they could not, consistently with their ideas of public duty, come to any conclusion, or agree to any report which could promise to unite in any degree the conflicting views of the House on this question.

The question was taken on discharging the committee from the further consideration of the subject, and agreed to.

Mr. TAYLOR then, as he observed, to bring the question before the House, at a proper time and in a distinct shape, and not with a view to invite a discussion on it at this time, moved the following resolution:

"*Resolved*, That a committee be appointed with instructions to report a bill prohibiting the further admission of slaves into the Territories of the United States west of the river Mississippi."

Mr. LOWNDES said he should have no objection to the resolution, if its effect would be nothing more than was stated by the mover; but it surely ought not to be expected that the House would pass without discussion a resolution expressed in terms such as the one before them. Before the House should agree to instruct a committee to bring in a bill embracing a principle on which there were varying opinions, it would certainly discuss the preliminary question. He suggested, therefore, that the phraseology be modified so as not to express any opinion of the House in adopting it. If a committee could not agree, as had just been stated, it certainly could not be expected that the House would adopt such a form of expression, without debate, as should indicate an agreement of opinion on this subject.

Mr. TAYLOR did not understand the resolution in the same way as Mr. LOWNDES. The House could not get at the question unless it was on a bill; and, in directing the committee to prepare a bill, he did not intend to express any opinion on the principle of the bill, or intend that the House should decide on the abstract question. Had such been his object, he would have stated in the resolution that it was expedient. He presumed there were no members, he knew of none, who doubted the constitutional power of Congress to impose such a restriction on the Territories, and the only question which the bill could present, was one of expediency.* The resolution would not commit any member as to the abstract question referred to.

Mr. RHEA was opposed to the resolution, because he considered it not a very fair way of coming at the question. He wished gentlemen would exercise a little of the candor they talked about so much, and not endeavor to force the discussion on the House unexpectedly. The adoption of such a resolution by the House would have the effect to spread an opinion through the country, that the House approved of the bill they ordered to be brought in, and that it would become a law; and he wished no such opinion to go forth. The resolution was worded as if the question of expediency was settled, and took every thing for granted. This he was opposed to. There was a great deal to be said on that question; and he would not agree to a resolution which should have the appearance of admitting principles which had not been discussed or conceded fairly.

Mr. SMITH, of Maryland, was sure the mover of the resolution did not wish to take the House by surprise; and, as many members were absent, it would not be proper to press a decision on the resolution now. The proper course was the usual one—to refer the inquiry to a committee. Let them consider it; if they should report a bill, let that bill go to a Committee of the Whole, when the House would be apprised of it, and would be prepared to discuss and act on it. He moved that the resolution be committed to the Committee of the Whole, and made the order for the second Monday in January; because the members had been prepared to anticipate, on that day, the discussion of the subject in another form.

Mr. MERCER was sure, from the first, that nothing like compromise would grow out of the adoption and reference of the former resolution, because one party founded their opinions, honestly, he had no doubt, on what they conceived the solemn obligations of justice; and the other party founded theirs on the solemn obligations of an oath. As respected the discussion of this subject, it had been referred to the second Monday in January, and it was considered settled that it would not come up before. It was, therefore, improper to take up the discussion now, in the absence of many members, who had left here in confidence that the subject would not be discussed until a fixed day; and, in a way, too, which would commit the House on the question. Whenever a member wished to bring in a bill, he always gave notice, and was required to do so; because a solemn character was given to a subject when once entertained by the House, and it was considered fair to give notice. Mr. M. observed that his objections to the resolution grew out of no hostility to its object. When the question proposed should come fairly before the House, he should support the proposition. Standing here as a Representative of the people west of the Mississippi, he should record his vote against suffering the dark cloud of calamity, which now darkened his country, from rolling on beyond the peaceful shores of the Mississippi.

Mr. HOLMES, of Massachusetts, did not agree

* This is a remarkable declaration, and would seem to have been heard with general acquiescence. The question of restricting the State of Missouri had then been before Congress, and the public, for a year, and its constitutionality vehemently contested, but the constitutionality of restricting a Territory had not then been disputed, and that question rose no higher than one of expediency.

with the mover of this resolution. It proposed to instruct a committee to bring in a bill for a particular object. This proposition tested the opinion of the House on the measure; because, if he voted for instructing a committee for any object, it would be expected of him to vote for the bill, when it should be reported, pursuant to the instruction—unless he wished to be thought inconsistent. To vote for the instruction would certainly be considered as a pledge to support the object of the bill. He was not prepared to say whether he would vote for such a bill as the one proposed or not—he inclined to think he should not. But he was satisfied of one thing, and that was, that this question was very different from that of the Missouri bill; and he thought that bill ought to be first acted on—it had been once already discussed, and had priority of the proposition now before the House. Mr. H. observed that, whatever he might think about prohibiting slavery in the Territories of the United States, he could entertain no doubt on the other question. His mind was fully made up and settled that the House had no right to inhibit a State in this particular. The constitution of the country, the treaty of cession, settled his opinion on this question, and forbade him to hesitate in declaring that Congress had no power to prohibit the exercise of this privilege by the State of Missouri.

The question was then taken on postponing the question, and decided in the affirmative, by a vote of 83 to 62.

THURSDAY, December 30.

State of Maine.

The House then, according to the orders of the day, resolved itself into a Committee of the Whole, (Mr. HILL in the chair,) on the bill for the admission of the State of Maine into the Union.

The question being stated that the committee do rise and report the bill—

Mr. CLAY (Speaker) said he was not yet prepared for this question. He was not opposed to the admission of the State of Maine into the Union. The intelligence and numerical strength of her population, her extent of territory, her separation from old Massachusetts by intervening territory, her position in relation to the other members of the Confederacy, all concurred to recommend the measure now proposed. But, before it was finally acted on, he wished to know, he said, whether certain doctrines of an alarming character—which, if persevered in, no man could tell where they would end—with respect to a restriction on the admission into the Union of States west of the Mississippi, were to be sustained on this floor. He wished to know what was the character of the conditions which Congress had a right to annex to the admission of new States; whether, in fact, in admitting a new State, there could be a partition of its sovereignty. He wished to know the extent of the principles which gentlemen meant to defend in this respect; and particularly the extent to which they meant to carry these principles in relation to the country west of the Mississippi. On this subject, he said, there should be a serious pause; the question should be maturely weighed before this new mode of acquiring power was resorted to, which was proposed in regard to the State to be formed out of the present Territory of Missouri. Heretofore, when the population and extent of a territory had been such as to entitle a territory to the privilege of self-government, and the rank of a State, the single question had presented itself to admit or reject it, without qualification. But new doctrines had sprung up on this subject; and, said he, before we take a single step to change the present relations of the members of the Confederation, there should be a distinct understanding between the Representatives from the various parts of the country, as to the extent to which they are to be carried. If beyond the mountains Congress can exert the power of imposing restrictions on new States, can they not also on this side of them? If, there, they can impose hard conditions—conditions which strike vitally at the independence and power of the States—can they not also here? If, said he, the States of the West are to be subject to restrictions by Congress, whilst the Atlantic States are free from them, proclaim the distinction at once; announce your privileges and immunities: let us have a clear and distinct understanding of what we are to expect. He would not, however, he said, press this part of the subject, but proceed to notice another point which presented itself in respect to this bill; wishing the honorable gentleman, under whose auspices this bill had been introduced into the House, distinctly to understand that he had not the slightest indisposition to the reception of Maine into the Union on the footing of the other States of the Union.

Mr. C. then adverted to the section, which had been stricken out of the bill, respecting the representation of Maine on this floor. Looking back to 1791, what then took place on a similar subject with this? The State of Kentucky, if he was not egregiously mistaken in the history of the times, was delayed eighteen months before she was permitted to come in, until Vermont also was ready; and the two States would be found connected together in the act providing for their representation in Congress. He asked whether this precedent from the statute book might not be advantageously followed in regard to the two States now claiming admission into the Union; one being from the Northeast, the other from the West, as was the case in 1791? This, he said, was worthy of consideration. The precedent was from the early, and, as far at least as regards the construction of the constitution under which we act, the best times of the Republic. Whether such a union of the two States took place now, or not, Mr. C. said he wished to know what was to be done on the subject of the representation of

Maine? Did the gentleman mean to follow up this bill by another, providing specially for that object? The committee, he thought, ought not to rise and report the bill in its present shape, without satisfactory information on that point.

Mr. HOLMES rose in reply. The application from the people of Maine to be admitted into the Union as one of the States, he said, was a distinct subject presented to the consideration of the committee; and the question was, shall Maine be or not be admitted into the Union? Upon that question, he was prepared to support the affirmative. The other question, relative to the apportionment of representation between Maine and Massachusetts, he was ready to discuss now or at any other time; and the only reason why he had wished to expunge the section relative to that point from the present bill, was that there was some uncertainty, from the practice which had hitherto prevailed on the admission of new States, as to the apportionment of the representation. For himself, he said, he had entertained no doubt on the subject, until he saw the precedent to which the gentleman had alluded. He had felt, no doubt, that when a State is formed from a portion of another State, and the relative proportion of the territory and population known, the representation should stand as at present, until a new census was taken. But, he said, this precedent, with regard to Kentucky, had staggered him. That State had been formed from a portion of the territory of Virginia, and two representatives on this floor were given to Kentucky, without diminishing the number of representatives from the State of Virginia. This was a precedent which he thought did not exactly accord with the principles of the constitution, which laid down a different rule for the apportionment of representation. It was possible, he said, there was some reason, which we do not know, which induced the course pursued on that occasion. Possibly it was then determined that, if a State sending fifty representatives should be divided into two States, the original State should continue to send her fifty members, and the new State should send twenty-five. If Congress had so determined, he apprehended they had determined against the provisions of the constitution. Probably Congress then thought they had the power which they exercised, inasmuch as the existing apportionment of representatives among the States had been made by the framers of the constitution, and not according to an exact enumeration of the people. Probably the people in that portion of the Territory had increased so much faster than the rest as, in the opinion of Congress, to entitle them to the two representatives which were thus additionally given. But this precedent proved that, between one apportionment and another, the Congress have a right to modify that apportionment, where circumstances make it necessary. However it might be settled in matter of form in the present case, Mr. H. said that the parties concerned would be satisfied that Maine has the seven representatives, which according to the last enumeration that portion of the territory of Massachusetts is entitled to, and Massachusetts would be content to have the remaining thirteen representatives to which her population entitled her. If the doctrine established in the case of Kentucky should be sustained on this occasion, Massachusetts would still have her twenty representatives, and Maine would be entitled to seven. That doctrine, he said, would be monstrous, and he should not claim for Massachusetts the the advantage of the precedent.

Mr. LIVERMORE, of New Hampshire, said, the question before the committee he took to be simply this: whether the committee should rise, and report the bill now before them. He asked the honorable gentleman from Kentucky, whether he was of opinion that Congress could impose any restriction on Maine? That question the gentleman would, he knew, answer in the negative. Why, then, was the time of the House taken up in an unnecessary discussion? It had been said that, if restrictions were proposed on Missouri, Maine and Missouri ought to come into the Union, hand and hand together. Now, Mr. L. said, it was very well known, that every one who contended for the restriction on the new States, beyond the Mississippi, had gone on the ground that the territory acquired by France stood on a distinct footing, and not on the same footing as the old States. Why did not the gentleman, when the State of Alabama was admitted in the Union by a bill passed at this session, make the objections which he had now raised to the admission of Maine? That bill, however, had passed through this House with as much celerity as was usual with bills of a public nature, to say no more of it. If no difference of opinion existed as to the propriety of admitting Maine into the Union, why was the House impeded in its progress through the bill by arguments which applied to another question, and not this?

Mr. CLAY remarked that, since the question was put, he would say at once to the gentleman from Massachusetts, and his worthy friend the chairman of the Committee on the Post Office and Post Roads, with that frankness which perhaps too much belonged to his character, that he did not mean to give his consent to the admission of the State of Maine into the Union, as long as the doctrines were upheld of annexing conditions to the admission of States into the Union from beyond the mountains. Equality, said he, is equity. If we have no right to impose conditions on this State, we have none to impose them on the State of Missouri. Although, Mr. C. said, he did not mean to anticipate the argument on this subject, the gentleman from New Hampshire would find himself totally to fail in the attempt to establish the position that, because the Territory of Missouri was acquired by purchase, she is our vassal, and we have a right to affix to her admission conditions not applicable to the States on this side of

the Mississippi. The doctrine, said Mr. C., is an alarming one, and I protest against it now, and whenever or wherever it may be asserted, that there are no rights attaching in the one case which do not in the other; or that any line of distinction is to be drawn between the Eastern and the Western States. It is a distinction which neither exists in reason, nor can you carry it into effect in practice. But, Mr. C. said, he did not mean to go into this subject. It was proper and fitting, however, in his opinion, that this bill should be delayed; that the House should not act on the one bill until it could also act on the other for the admission of a State in the West. But it seemed there was a particular aversion to the connection of Maine and Missouri. If he was not much mistaken, Mr. C. said, those who now objected to such an alliance, were the advocates of the alliance in the case which he had quoted in the precedent, and had succeeded in keeping Kentucky out of the Union for some twelve or eighteen months, because Vermont was not ready to come in; and, when ready, connected them in the same bill. I am glad to hear, said he, from the gentleman from Massachusetts, that that old and venerable Commonwealth has given to Maine till the 3d of March to come into the Union, or rather has allowed to Congress till the 3d of March to admit her. It is a good long time to the 3d of March, at least sixty days, and in that time much light may be shed on the principles which are to govern us in the admission of new States into the Union. What occasion, then, for haste? The gentleman from Massachusetts, Mr. C. said, was not unwilling to follow a part of the precedent of 1791; but, when the other part of it was suggested for his imitation, it was most unreasonable! The gentleman had himself shown that it was not now proper to act conclusively on this bill; for has he not told the House, asked Mr. C., that he has not prepared a proposition respecting the representation of Maine? When will he do it? Supposing we have a right to take seven Representatives from Massachusetts, and give them to Maine, what will be the condition of the gentlemen who now represent those seven districts of Massachusetts? But it was a question, he said, whether it was in the power of Congress to disfranchise Massachusetts, by taking from her seven, or any other number of her Representatives. These matters ought to be duly considered, and gentlemen should be prepared to act on them.

Mr. WHITMAN, of Massachusetts, said, that the gentleman had avowed his object in opposing the progress of this bill, with his usual and characteristic frankness; which he hoped would constitute a sure pledge that he would give up his opposition, if it should appear not to be well founded. The gentleman had expressed his wish to unite the two questions of Maine and Missouri. It had sometimes occurred, Mr. W. said, when one branch of a Legislature refused its assent to a measure which had passed the other, that the object of the latter was obtained by tacking the obnoxious proposition to some favorite measure of the former: and, as Mr. W. understood the honorable Speaker, he had declared that he would go on this principle in the admission of new States into the Union; and that, in this case, he would not admit Maine unless tacked to Missouri—he would admit both at the same time, and both on the same principle. Now, Mr. W. said, he held that there was no similarity in the two cases. The Speaker would certainly do the gentlemen who were opposed to the admission of Missouri unconditionally into the Union, the justice to believe, that they were honest and sincere in their opposition to it, and that they did believe that Congress have a right to impose conditions on her admission, and they did further believe the proposed condition to be expedient. Here, then, was a part, perhaps a majority, of Congress believing in the right of annexing conditions to the admission of Missouri into the Union. How was it with regard to Maine? Why, not one individual member in this House—not the honorable Speaker himself, supposed that any condition ought to be annexed to her admission: on the contrary, he had avowed his belief that she ought to be admitted without condition. Ought not every case to stand on its own bottom? Would the Speaker consider it consistent with sound principles to say that he believed Maine ought to be admitted, and yet refuse to admit her unless Missouri should also be received, as he wishes, unconditionally into the Union? Such a refusal would be a mere political expedient; it would be to accomplish, by improper means, what could not otherwise be accomplished; a contrivance to get the House to do what they do not approve, or leave them the alternative of omitting to do what, even according to the Speaker's own position, ought to be done. Was it proper, Mr. W. asked, to make the interest of Maine a sacrifice to such a policy? Was it Maine, he asked, who stood in the way of the admission of Missouri, or was it something else? And, if not, ought Maine to fall a sacrifice to a scheme for compelling Congress to admit Missouri without any condition? He hoped the honorable Speaker would revise his decision; and, if he did, Mr. W. was sure he would decide differently.

Mr. HOLMES again rose. The honorable Speaker, in the course of his remarks, had said, that equality is equity. So it is, said Mr. H. I am disposed to proceed, and apply that principle to the present case, and I ask the gentleman to go with me and do likewise. The United States were thirteen in number when they formed the present compact; and among its provisions was one, that new States may be admitted into the Union, to be formed out of the original, with the consent of the States and of Congress. And how had equality proceeded since the adoption of the constitution? A State had been formed from a part of the territory of Virginia, and one from

North Carolina; and Ohio, Louisiana, Indiana, Mississippi, Illinois, and Alabama, had been successively admitted from the Territories. No division of any State had in the mean time taken place in the North or East, nor had any new State been erected there. He trusted, he said, that *he* should not be accused of ever acting contrary to the principles of equality or equity; he had no wish that the North and East should have privileges not enjoyed by the South and West—a doctrine against which he had protested in dangerous times, and against which he now protested. We are now told that our application is just, and we have certainly not been importunate; yet, unless we will do towards another section of the Union what we ourselves believe to be wrong, you will not do what in your consciences you believe to be right. The honorable Speaker was mistaken, Mr. H. said, he believed, with respect to the union of Kentucky with Vermont, in their admission. Vermont, Mr. H. said, was a separate State during the war; raised her own troops and paid them, and had a claim to admission wholly independent of any other State. Two Representatives, however, were given to each State; the same representation being given to Kentucky, who was already represented, as to Vermont, who was before unrepresented. This certainly showed no particular partiality or favoritism to the East.

Mr. CLAY said that, with respect to uniting the two States of Maine and Missouri in one act, he had not intimated any intention, at present, to connect them. But in reference to the case which he had referred to as a precedent for such a connection, the gentleman from Massachusetts had professed his ignorance of it. The gentleman, Mr. C. said, might never have heard of it, and, as he had so said, doubtless never had heard of it; but, if the gentleman was not informed on the subject, he (Mr. C.) hoped he would allow to him the benefit he had derived from having participated, in some degree, in the transactions of that day. I can assure him, said Mr. C., that the proposition came from the North, to delay the admission of Kentucky into the Union, until Vermont was ready to come in. But the gentleman perceived great injustice in such a proceeding at the present day; on that head, Mr. C. said, he would recommend to his recollection the old anecdote of the parson and the bull. He professed that he could not see the great injustice of a proposition, if now made, to connect the admission of the two States together. A State in the quarter of the country from which I come, said Mr. C., asks to be admitted into the Union. What say the gentlemen who ask the admission of this State of Maine into the Union? Why, they will not admit Missouri without a condition which strips it of an essential attribute of sovereignty. What then do I say to them? That justice is due to all parts of the Union; your State shall be admitted free of condition; but, if you refuse to admit Missouri also free of condition, we see no reason why you shall take to yourselves privileges which you deny to her,—and, until you grant them also to her, we will not admit you. This notion of an equivalent, Mr. C. said, was not a new one; it was one upon which Commonwealths and States had acted from time immemorial. But he did not mean to press this part of the subject—he would put it aside, and confine himself to the single point, whether it was proper to pass this bill, without incorporating in it some provision on the subject of the representation of Maine? This was the point on which he desired a decision before the bill passed. Were he to permit himself again to glance at the case of Missouri, he would say, there was a wide difference, in one respect, between that case and the case of Maine; and that the former most urgently required the attention of the House. The one was in the actual enjoyment of the advantages of self-government—was already in the Confederacy as a component part of a highly respectable State—was heard and represented by a phalanx of seven members on this floor. Whilst Missouri was subjected to arbitrary government—for he held that, whenever a people are subject to a government under an authority which is as to them foreign, they being unrepresented, that government is arbitrary, whatever be the character of its measures—no boon from Heaven, in his estimation, being more inestimable than the privilege of a people to govern themselves—and no political state more intolerable than that of having laws, and those most solemn of all laws, constitutions, imposed upon a people without their consent. Precedents might be found for such proceedings, but, happily for the New World, not in this part of the globe, but in the other hemisphere, and recently, too, at the close of one of the most memorable struggles in which any portion of the human race had ever been engaged. Missouri was unheard on this floor; she had not twenty votes to spring up in vindication of her rights and defence of her interests; this infant, distant Territory, without a vote on this floor, was in no condition comparable to that in which Maine now stood. But, he said, he would not press this subject further.

Mr. STORRS, of New York, said, besides the difficulty already stated, there was another point on which he wished some information; at the same time that he thought it proper to declare that he was in favor of the admission of Maine into the Union, without reference to Missouri. The constitution declared that no State shall enter into any compact without the assent of Congress. There had been certain articles of stipulations agreed upon between Massachusetts and the people of Maine, among which was one, for example, securing to Maine her proportion of all moneys which should be received from the Government of the United States, under the claims of the commonwealth,

for militia services, during the late war, &c. Ought not the consent of Congress be given to these stipulations?

Mr. HOLMES said that the clause of the constitution which had been alluded to, obviously referred to compacts or treaties with foreign powers, and not to agreements between States. But, if otherwise, the consent of Congress could be given after, as well as before, the making of the compact.

Mr. FOOT, of Connecticut, said he rejoiced that the question on this bill was now narrowed down to one point—a difficulty in respect to the representation. Would it not, he asked, be in the power of the two States to settle this question between themselves, without agitating it on this floor? Can we, said he, deprive Massachusetts of any part of her representation? She has twenty representatives on this floor, and will continue to have them. Is the objection to her keeping them, to come from Kentucky? No; it is to come from Maine. If she has no objection, are we to object? Certainly not. Was there, Mr. F. asked, any difficulty in regard to the right of a representative, after his election, to remove out of the State which he represents, into another? He presumed not; for such cases had occurred, and no exception had been taken to the right in those persons to retain their seats. If Maine be willing, and Massachusetts be satisfied, said Mr. H., ought not we to be? He could see no necessity for stumbling here for hours over this objection. He was happy, he remarked, that the question was now stripped of every exterior consideration, and the House had to decide only on the plain question, whether Maine should be admitted or not.

Mr. STORRS said he had merely thrown out the suggestion respecting the constitutional provision regarding compacts, for the gentleman from Massachusetts to consider it. Mr. S. added, he was the more induced to do it, from the earnest desire that Maine should not lose the benefit of her share of the moneys to be received from the United States under the Massachusetts claims!

FRIDAY, December 31.

State of Maine.

The House then proceeded to the order of the day, and again resolved itself into a Committee of the Whole, (Mr. MARK LANGDON HILL in the chair,) on the bill providing for the admission of the District of Maine into the Union, as an independent State.

And, no further debate arising—

The committee rose and reported the bill and amendments to the House.

After much debate on the question arising out of the representation of Massachusetts and of Maine in Congress, and the best mode of arranging it, if Congress interposes at all respecting it, the amendment made in Committee of the Whole, to strike out of the bill so much as relates to this subject, was agreed to.

Various other amendments were proposed to the bill; among which were the following:

Mr. STORRS moved to amend the bill by adding a new section, in the following words:

"*And be it further enacted*, That, until a new enumeration shall be made of the inhabitants of said Commonwealth of Massachusetts and said State of Maine, and a new apportionment of Representatives in the Congress of the United States, to be elected in said Massachusetts and Maine, the said Commonwealth of Massachusetts shall be entitled to and may be represented in Congress by thirteen Representatives; and the said State of Maine shall be entitled to, and may be represented in Congress by seven Representatives."

Mr. WHITMAN moved to amend the proposed amendment by adding, after the enacting clause, these words: "from and after the 15th of March next, and."

This motion was negatived, as also was the main motion of Mr. STORRS.

Mr. WHITMAN then moved to strike out the preamble of the said bill, which is in the following words, viz:

"Whereas, by an act of the State of Massachusetts, passed on the 19th day of June, 1819, entitled 'An act relating to the separation of the District of Maine from Massachusetts proper, and forming the same into a separate and independent State;' the people of that part of Massachusetts heretofore known as the District of Maine, did, with the consent of the Legislature of said State of Massachusetts, form themselves into a separate and independent State, and did establish a constitution for the government of the same, agreeably to the provisions of the said act; therefore."

And, in lieu of the said preamble, to insert one in the words following, to wit:

"Whereas the Legislature of the Commonwealth of Massachusetts, by an act, entitled 'An act relating to the separation of the District of Maine from Massachusetts proper, and forming the same into a separate and independent State,' passed on the 19th day of June last, declared the consent of said Commonwealth, that the District of Maine (being that part of said Commonwealth lying east of the State of New Hampshire) might be formed and erected into a separate and independent State, upon certain terms and conditions in the said act particularly specified: *And, provided*, the Congress of the United States should give its consent thereto, before the fourth day of March next:

"And whereas it appears that the terms and conditions proposed by said Legislature, on the part of said Commonwealth, to the people of said District of Maine, have been by them agreed to and accepted, and on their part complied with:

"And whereas a convention of delegates, duly chosen by the people of said District, have formed a constitution and frame of government, which is republican, and conformable to the principles and provisions of the act aforesaid; and have petitioned Congress that its consent may be given that the said District, by the style and title of the State of Maine, may be admitted into the Union as a separate and

independent State, and on the footing of an original State; therefore."

And on the question, "Shall the preamble be changed as aforesaid?" it was determined in the negative.

Mr. SMITH, of North Carolina, then moved to strike out the preamble prefixed to the said bill, which was rejected; and the bill was then ordered to be engrossed, and read a third time on Monday next.

MONDAY, January 17, 1820.

Civilization of the Indians.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a report of the progress which has been made in the civilization of the Indian tribes, and the sums which have been expended on that object, prepared in obedience to the resolution of the 6th instant; which letter and report were ordered to lie on the table. The letter is as follows:

DEPARTMENT OF WAR, *January* 15.

SIR: In compliance with the resolution of the House of Representatives of the 6th instant, "that the Secretary of War be directed to report whether any, and if any, what progress has been made in the civilization of the Indian tribes, and the sums of money, if any, have been expended on that object, under the act of the last session," I have the honor to make the following statement:

No part of the appropriation of ten thousand dollars annually, made at the last session, for the civilization of the Indians, has yet been applied. The President was of opinion, that the object of the act would be more certainly effected, by applying the sum appropriated in aid of the efforts of societies, or individuals, who might feel disposed to bestow their time and resources to effect the object contemplated by it; and a circular (of which the enclosed is a copy) was addressed to those individuals and societies who have directed their attention to the civilization of the Indians. The objects of the circular were to obtain information, and disclose the views of the President, in order to concentrate and unite the efforts of individuals and societies, in the mode contemplated by the act of the last session. The information collected will enable the President to apply, early in this year, the sum appropriated. The economy and intelligence with which it will be applied, under the superintendence of zealous and disinterested individuals, will, it is hoped, carry into effect, as far as practicable, the views of Congress.

While many of the Indian tribes have acquired only the vices with which a savage people usually become tainted, by their intercourse with those who are civilized, others appear to be making gradual advances in industry and civilization. Among the latter description may be placed the Cherokees, Choctaws, Chickasaws, and perhaps the Creeks, most of the remnants of the Six Nations, in the State of New York, the Wyandots, Senecas, and Shawanese, at Upper Sandusky, and Wapakonetta. The Cherokees exhibit a more favorable appearance than any other tribe of Indians. There are already established two flourishing schools among them. One at Brainard under the superintendence of the American Board for Foreign Missions, at which there are at present about one hundred youths of both sexes. The institution is on the Lancasterian plan, and is in a very flourishing condition. Besides reading, writing, and arithmetic, the boys are taught agriculture, and the ordinary mechanic arts, and the girls, sewing, knitting, and weaving. At Spring Place, in the same nation, there is a school on a more limited scale, under the superintendence of the United Brethren, or Moravians. Two other schools are projected in the same nation, one by the American, and the other by the Baptist Board, for Foreign Missions; and arrangements are making to establish two other schools among that portion of the Cherokee nation which reside on the Arkansas. The Choctaws and Chickasaws have recently evinced a strong desire to have schools established among them, and measures have been taken by the American Board for Foreign Missions for that purpose. A part of the former nation have appropriated two thousand dollars annually, out of their annuity, for seventeen years, as a school fund. A part of the Six Nations, in New York, have, of late, made considerable improvements; and the Wyandots, Senecas, and Shawanese, at Upper Sandusky, and Wapakonetta, have, under the superintendence of the Society of Friends, made considerable advance in civilization.

Although partial advances may be made, under the present system, to civilize the Indians, I am of opinion, that, until there is a radical change in the system, any efforts, which may be made, must fall short of complete success. They must be brought gradually under our authority and laws, or they will insensibly waste away in vice and misery. It is impossible, with their customs, that they should exist as independent communities, in the midst of civilized society. They are not, in fact, an independent people, (I speak of those surrounded by our population,) nor ought they to be so considered. They should be taken under our guardianship; and our opinion, and not theirs, ought to prevail, in measures intended for their civilization and happiness. A system less vigorous may protract, but cannot arrest their fate.

I have the honor to be, &c.,

J. C. CALHOUN.

HON. H. CLAY,
Speaker House of Reps.

MONDAY, January 24.

Admission of Missouri.

The bill to authorize the people of Missouri Territory to form a constitution and State government, and providing for the admission of such State into the Union, being the first order of the day, was announced by the SPEAKER.

Mr. TAYLOR moved that the consideration of the bill be postponed to this day week, with the view of waiting the decision of the Senate on the bill now before them on this subject.

This motion brought on an animated debate of considerable length, in which the propriety of waiting the movements of the other House, or of proceeding now to consider this bill, in which there were various details to be considered and decided, besides the principle now under debate in the Senate, &c., were discussed.

The motion to postpone the bill was supported

by the mover, and Messrs. LIVERMORE, CLAGETT, and CUSHMAN; and the postponement was opposed by Messrs. SCOTT, LOWNDES, BRUSH, COOK, FLOYD, and CAMPBELL.

The question was at length decided in the negative, by yeas and nays: For postponement 87, against it 88, as follows:

YEAS.—Messrs. Adams, Allen of Massachusetts, Allen of New York, Baker, Bateman, Boden, Butler of New Hampshire, Case, Clagett, Clark, Crafts, Cushman, Darlington, Dennison, Dewitt, Dowse, Eddy, Edwards of Connecticut, Fay, Folger, Ford, Forrest, Fuller, Gross of New York, Gross of Pennsylvania, Guyon, Hackley, Hall of New York, Hall of Delaware, Hazard, Hemphill, Hendricks, Herrick, Hibshman, Heister, Hostetter, Kendall, Kinsley, Lathrop, Lincoln, Linn, Livermore, Lyman, Maclay, Mallary, Marchand, Mercer, R. Moore, S. Moore, Monell, Morton, Mosely, Murray, Nelson of Massachusetts, Patterson, Peek, Phelps, Philson, Pitcher, Plumer, Rich, Richards, Richmond, Rogers, Ross, Russ, Sampson, Silsbee, Sloan, Smith of New Jersey, Southard, Storrs, Street, Strong of Vermont, Strong of New York, Tarr, Taylor, Tomlinson, Tompkins, Tracy, Upham, Van Rensselaer, Wallace, Wendover, Whitman, and Wood.

NAYS.—Messrs. Abbott, Alexander, Allen of Tennessee, Anderson, Archer of Maryland, Archer of Virginia, Baldwin, Ball, Barbour, Bayley, Beecher, Bloomfield, Brevard, Brown, Brush, Bryan, Buffum, Burwell, Butler of Louisiana, Campbell, Cannon, Cobb, Cocke, Cook, Crawford, Crowell, Culbreth, Culpeper, Cuthbert, Davidson, Earle, Edwards of North Carolina, Floyd, Foot, Fullerton, Garnett, Hall of North Caroiina, Hardin, Hill, Holmes, Hooks, Johnson, Jones of Virginia, Jones of Tennessee, Kent, Little, Lowndes, McCoy, McCreary, McLane of Delaware, McLean of Kentucky, Mason, Meigs, Metcalfe, Neale, Nelson of Virginia, Newton, Overstreet, Parker of Virginia, Pinckney, Pindall, Quarles, Randolph, Rankin, Reed, Rhea, Ringgold, Robertson, Settle, Shaw, Simkins, Slocumb, Smith of Maryland, B. Smith of Virginia, A. Smyth of Virginia, Smith of North Carolina, Stevens, Strother, Swearingen, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Warfield, Williams of Virginia, and Williams of North Carolina.

It was then moved by Mr. HOLMES that the House go into Committee of the Whole on the said bill; but, before the question was put on this motion, the House, about 4 o'clock, adjourned.

TUESDAY, January 25.

Admission of Missouri.

The House, then, on the motion of Mr. SCOTT, resolved itself into a Committee of the Whole, on the bill authorizing the people of the Missouri Territory to form a constitution and State government, &c.

Several important propositions were successively made in the course of the sitting to amend the bill, and a great deal of discussion took place. The committee rose without deciding on any question, and obtained leave to sit again.

WEDNESDAY, January 26.

Missouri State Bill—Compromise Proposed.

The House then again went into Committee of the Whole on the bill for the admission of Missouri.

The proposition under consideration was an amendment offered yesterday, to the second section of the bill, by Mr. STORRS, substantially to alter the limits of the proposed State, so as to make the Missouri River the northern boundary thereof, with the view of drawing a line on which those in favor of, and those opposed to the slave restriction, might compromise their views.

Mr. STORRS rose and withdrew the amendment which he had offered yesterday, and in lieu thereof submitted the following:

And provided further, and it is hereby enacted, That, forever hereafter, neither slavery nor involuntary servitude, (except in the punishment of crimes, whereof the party shall have been duly convicted,) shall exist in the Territory of the United States, lying north of the 38th degree of north latitude, and west of the river Mississippi, and the boundaries of the State of Missouri, as established by this act: *Provided*, That any person escaping into the said Territory, from whom labor or service is lawfully claimed in any of the States, such fugitive may be lawfully reclaimed, and conveyed, according to the laws of the United States in such case provided, to the person claiming his or her labor or service as aforesaid.

On this motion, a debate ensued, of a desultory character. Messrs. RANDOLPH, LOWNDES, MERCER, BRUSH, SMITH of Maryland, STORRS, and CLAY, successively followed each other in debate.

Mr. S. SMITH, of Maryland, said, that he rose principally with a view to state his understanding of the proposed amendment, viz: That it retained the boundaries of Missouri, as delineated in the bill; that it prohibited the admission of slaves west of the west line of the Missouri, and north of the north line; that it did not interfere with the Territory of Arkansas, or the uninhabited land west thereof. He thought the proposition not exceptionable, but doubted the propriety of its forming a part of the bill. He considered the power of Congress over the Territory as supreme, unlimited, before its admission; that Congress could impose on its territories any restriction it thought proper; and the people, when they settled therein, did so under a full knowledge of the restriction. If, said he, citizens go into the Territory thus restricted, they cannot carry with them slaves. They will be without slaves, and will be educated with prejudices and habits such as will exclude all desire on their part to admit slavery when they shall become sufficiently numerous to be admitted as a State. And this is the advantage proposed by the amendment; for, when admitted as a State, they can, under the constitution, be subjected to no other restriction than is imposed by that instrument on all the other States of the Union.

Mr. MEIGS, of New York, spoke as follows:

Mr. Chairman, I assure the committee that I shall not detain them long by my observations upon this question; nor should I now undertake to consume the fifteen or twenty minutes which I shall allot to myself, if it was not for the somewhat peculiar situation in which I am placed.

It is well known that the Legislature of the respectable State which I have the honor in part to represent, has requested the Representatives of that State, upon this floor, to vote for the restriction upon Missouri, now under consideration.

I have examined, attentively, the mass of argument which has been so laboriously accumulated on this question; and never, perhaps, was there on any occasion so much exhausted as on this. But, sir, I freely own that I cannot, in conscience or judgment, consent to impose this restriction upon Missouri.

There is a wonderful singularity in the present controversy, which destroys all confidence in the weight and value of that process of mind which we so proudly dignify with the title of reasoning. Sir, I never yet knew that reason and logic were to be found on this side or that of a parallel of latitude or longitude. What is the fact in this case? Why, sir, the parallel of latitude of 39 degrees almost precisely marks the division between the reason and argument of the North and South. That line of demarcation separates the slaveholding from the non-slaveholding States. On the south side of that line we find the climate and soil adapted to slaves, and there are the slaves; on the north side of that line we discover that the soil and climate require no slaves, and, therefore, few or no slaves are found. What, sir! is it possible, then, that one-half of us can be rationally and argumentatively on one side of the parallel of latitude, and the other half of us upon the other? I did believe that the truths of philosophy, that reason, that the Principia of Newton, were the same in every latitude, in every climate, and on every soil of this globe. Sir, there must be some mistake among us upon this occasion, and from the reflections which I have made, I think I can point it out.

It is now at least twenty years, that I have, with some pain and apprehension, remarked the increasing spirit of local and sectional envy and dislike between the North and South. A continued series of sarcasms upon each other's circumstances, modes of living, and manners, so foolishly persevered in, has produced at length that keen controversy which now enlists us in masses against each other on the opposite sides of the line of latitude. Gentlemen may dignify it by whatever titles they please. They may flatter themselves that all is logic, reason, pure reason. But certain I am, that it is neither more nor less than sectional feeling. Feeling, sir, however gravely dignified, has brought us in hostility to this singular line of combat, and we, who are, you know sir, "but children of a larger growth," are now most aptly comparable to those celebrated and eternal factions of *Up Town* and *Down Town Boys*. I put this observation to every one who hears me, with the wish that he may apply his own recollections and reflections to it. Gentlemen may exhaust all their arguments, all their eloquence upon the question before us; they may pour out every flower of rhetoric upon it; but, sir, I view their labors as wholly vain, and I fear that their flowers will be found to be the most deleterious and most poisonous in the whole range of botany. They poison national affection.

Reason divided by parallels of latitude! Why, sir, it is easy for prejudice and malevolence, by aid of ingenuity, to erect an eternal impenetrable wall of brass between the North and South, at the latitude of thirty-nine degrees! But, in the view of reason, there is no other line between them than that celestial arc of thirty-nine degrees which offers no barrier to the march of liberal and rational men. Is it forgotten that the enlightened high priest, the archbishop of one belligerent, goes to the temple of the Almighty and chants "Te Deum laudamus," for the victory obtained by his country, with carnage and devastation, over the enemy; while the archbishop of another belligerent is at the same time entering the house of God, and singing also "Te Deum laudamus pro victoria," upon the other side of the line, the creek, or the river? We, who know these things, should profit by our knowledge, learn liberality, and practise it. It is true, and I glory in the knowledge of the truth, that, in matters of religion, this country has, in its constitutions, attained a high point of reason and liberality.

Men, after forty or sixty years of religious intolerance, here, at last, may worship the Creator in their own way. What a privilege! how dearly acquired! how much to be prized! It fills us with astonishment when we reflect how hard it is for us to refrain from forcing by power our opinions upon our brother men! how readily each individual imagines that the light is alone in his own breast, and how enthusiastically he engages in propagating it among mankind by all possible means, fancying, dreaming that he is a prophet, a vicegerent of Almighty God.

Sir, we have been now for a long time occupied in this debate, mis-spending our time and the public money. I feel well assured that the body of the people will judge our conduct rightly. They are able critics. Yes, sir, even in matters of sublime art, even in those works which none can execute, all are critics! They determine, at a glance of the eye, what is good and beautiful in architecture, in statuary, in painting, and what is to them still more easy, what is good in governments and constitutions. They will soon ask us, what is the controversy about? Did you, from motives of policy and regard for the welfare of the whites, propose to remove the growing black race from this country? No. Did you, actuated by humane con-

siderations for the unfortunate slaves, propose to redeem them from their bondage, and restore them to liberty and the land of their fathers? No. What then? Did you propose to draw such lines of restriction around the slave population as would ere long starve them out, and so prevent their becoming dangerous to the whites? If you did, remember that such is the increasing kindness of the slaveholders, so ameliorated the condition of the slave, that not one slave, not one child less will be born, and not one can die by starvation. Sir, the truth is, that nothing has yet been proposed beneficial either to the white or black race in all this long-drawn debate. Give me leave to say, sir, that this consideration induced me to introduce the resolution which now lies upon the table, devoting the public lands to the emancipation and colonization of the unfortunate slaves. If we want some object upon which to exhaust our enthusiasm, here is one worth it all. Not the subjugation of a people, but the redemption of a nation.

The question being taken on the motion of Mr. STORES, was decided in the negative.

The reading of the bill proceeded as far as the fourth section; when

Mr. TAYLOR, of New York, proposed to amend the bill by incorporating in that section the following provision:

Section 4, line 25, insert the following after the word "States:" "And shall ordain and establish, that there shall be neither slavery nor involuntary servitude in the said State, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: *Provided, always,* That any person escaping into the same, from whom labor or service is lawfully claimed in any other State, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid: *And provided, also,* That the said provision shall not be construed to alter the condition or civil rights of any person now held to service or labor in the said Territory."

The main question of the restriction on slavery in the future State of Missouri, being thus fully before the House, and the usual hour of adjournment having arrived, the committee rose, reported progress, and obtained leave to sit again.

THURSDAY, January 27.

Missouri State Bill—Restriction on the State.

The order of the day on the Missouri bill being announced—

Mr. TAYLOR'S motion to amend the bill by imposing a restriction on slavery, being under consideration—

Mr. TAYLOR, of New York, rose, and spoke as follows:

Mr. Chairman: The bill on your table proposes no act of ordinary legislation. No attribute of sovereignty is more important, than that which is exercised in the admission of new parties to the Federal Compact. It was reserved for America to exhibit, on an extensive scale, an example of independent States uniting for the general welfare, surrendering a part of their sovereignty to a new created Government, and authorizing it to constitute other States similar to themselves.

By the Articles of Confederation, the approbation of nine States out of thirteen was necessary to the admission of a new member. In the Convention that formed the Federal Constitution, the subject of admitting new States being under consideration, it was proposed that to such admission the consent of two-thirds of the members present in each House of Congress should be necessary, and it passed in the affirmative by the votes of all the States present, except Virginia and Maryland. No other question was taken on this single proposition, and why it was not finally incorporated into the constitution does not appear. Congress and three-fourths of the States may change the constitution—may establish principles and create powers injurious to the rights of the other States. The period may arrive when the desire to obtain this constitutional majority in support of some project of ambition, or avarice, may lead to the admission of States favorable to its accomplishment.

This bill acquires additional importance from the consideration that the territory in question is no part of our ancient domain. The power of admitting new States into the Union, when adopted by the members of the good old Confederation, had to this territory no more application than to Chili or Peru. It was a foreign province—alien to our laws, customs, and institutions. It sustained none of the conflicts of our Revolution; it was purchased not by the blood of our fathers, but with the wealth of their sons. If we believe that, by a liberal construction of the constitution, the power of admitting this Territory as a State is possessed by Congress, we remember also that politicians of no humble name have denied its existence; that an amendment to the constitution, for the purpose of obtaining from the States a grant of the power now about to be exercised, was proposed in the United States Senate, by a statesman eminently entitled to the confidence of this nation; that serious doubts on this subject existed in the minds of those who then occupied in the Government its most distinguished stations—doubts, which were finally removed, as other doubts afterwards were, by considerations of imperious necessity.

The magnitude of this question is apparent, by casting your eye on a map of the Territory from which it is proposed to carve this State? Who knows its extent? Who has explored its boundaries? The waters of its rivers traverse a country of at least two thousand miles, before they reach the Mississippi. It probably contains more square miles than all the States of the Old Confederacy. The rule you now apply to Missouri, hereafter will be held applicable to the residue of the Territory. The fertility of

its soil, the temperature and salubrity of its climate, its majestic rivers, its vegetable productions, its mineral wealth; all contribute to confirm our anticipations of its greatness. Under the guidance of a wise policy, it will doubtless exhibit, in future time, the fairest specimens of American character, and the most perfect models of free government. Cold, indeed, must be his heart who can contemplate without emotion the high destinies prepared for our posterity in this land of promise—secured to them without possibility of failure, if Congress shall be true to their interests and to our national principles. Probably this very question, certainly the determination of a few Congresses, will irrevocably decide, whether this Territory is indeed, as it has been pronounced on a former occasion, by a gentleman from Virginia, (Mr. RANDOLPH,) the most expensive acquisition made by the United States, or whether its purchase was the wisest expenditure of treasure ever made by any nation.

The importance of this bill is further enhanced by the unparalleled excitement it has produced in every section of the Union; an excitement occasioned not by the intrigues of political leaders, but arising from the intrinsic merits of the subject, and manifested by the spontaneous expression of public feeling.

The admission of Missouri, without a restriction against slavery, is opposed by a majority of the States in the Union. These States, it is true, have parted with the power of legislating on the subject; but, ought not their judgment and wishes to be respected? In business partnerships, what would wisdom dictate in such a case? Although its managers or agents might have power to admit new members, would they be wise to exercise it in a manner hostile to the known opinions of a majority of those, both in number and amount, interested in the concern? What consequences would be likely to follow such proceedings, even if the managers should be able, by the means of votes thus acquired, to retain their places, and control the interests of the original partners? Could the concern flourish? Would not contention and distrust unavoidably ensue? And is harmony less desirable in a confederacy of States, than in the little concerns of mercantile profit?

The adoption of the amendment is necessary to retard the growth of that slaveholding spirit which appears to gain ground in the United States. Notwithstanding the exertions of abolition and colonization societies, in various parts of the Union, it is feared and believed that public sentiment in the West is becoming less unfriendly to slavery than it formerly was; no new State has been admitted into the Union since 1791, which has not established slavery by law, unless prohibited by Congress. Alabama, the last State admitted, has not left it to the regulation of law, but has protected it by a constitutional provision. In 1792, when Kentucky was admitted, a powerful combination of talent and influence was exerted in favor of the gradual emancipation of her slaves. Who were then the zealous supporters of freedom in Kentucky? The history of their efforts and the cause of their failure, are well known to some honorable members of this committee from that State. Unfortunately their efforts did not succeed. But, even an attempt to stop the progress of slavery in the West, though successful, was no small honor. It evinced an elevation of mind, a magnanimity of purpose, to which the citizens of no new State have since attained. Some old States have accomplished, for themselves, the objects of the Kentucky emancipators; but it has been done in latitude only where cotton could not be grown, and where the value of slaves was, on that account, comparatively small. The increase of a slaveholding spirit appears, not only from these facts, but also from the manner in which the ordinance of 1787 is treated, both in Congress and out of it. That ordinance was passed by the unanimous vote of all the States. I have the authority of an honorable Representative from Virginia, when I say, that its sixth article, which prohibits slavery, was proposed by a delegate of that State. Its enactment was then considered by all the States, as well slaveholding as non-slaveholding, not only within the legitimate powers of Congress, but especially recommended by considerations of public policy. Is this sentiment still maintained? No, sir, it is not; public journals, conducted under the patronage of high authority, denounce it; distinguished statesmen, in both Houses of Congress, proclaim it an instance of rank usurpation; and a Legislative Assembly of one State, at least, have threatened resistance if Congress shall apply the same principle to Missouri. It is not my purpose to declaim against these proceedings; I mention them only in proof of my proposition, that a slaveholding spirit is gaining ground in the Union.

Congress may admit new States into the Union. Congress also may declare war, and may borrow money. These acts are alike to be performed when required by the general welfare. The constitution imposes upon Congress no obligation to admit new States. It permits none to demand admission. It authorizes no member of the Confederacy to require such admission. The President and Senate cannot, by treaty, admit a State into the Union; nor can they impose on Congress an obligation to do it. The admission of Louisiana, which was part of the same territory with Missouri, was not claimed as a matter of right; it was solicited as a favor. The propriety of imposing conditions was not questioned. It was then thought reasonable and constitutional, too, that a political as well as every other society should prescribe the time, manner, and conditions of obtaining the privilege of membership. That the power of admitting new States and making the laws necessary and proper therefor, give the right for which we contend, according to the plain and natural interpretation of language,

appears to me too evident to need further illustration.

By the treaty with France, Congress acquired "an incontestable title to the domain and possession of the ceded territory in full sovereignty, with all its rights and appurtenances." The only limitation on the exercise of this sovereignty, must be found in the constitution. The sovereignty is general, but must be exerted in a manner consistent with the principles of our National Government. It, therefore, becomes important to ascertain what these principles are, in relation to the amendment on your table. In other words, is the power of holding slaves a federal right? In discussing this question, we ought carefully to distinguish between the principles of the United States Government and those of particular States. The doctrines of New Hampshire and of Georgia in regard to slavery, are diametrically opposite, and cannot both be the doctrines of the United States. The Federal Government is as distinct from each of these, as they are from each other. All these rightfully exercise a limited sovereignty in their proper spheres. We further premise, that, in a confederacy like ours, the principles of a dominant State naturally acquire a currency and an artificial value from their connection with honor and power. It is evident enough, that the United States Government does not belong to Virginia, any more than to Ohio. It nevertheless may be quite Virginian. Indeed we were told, but a few days since, that we are indebted for the territory in question to the wisdom and to the cash of Virginia. [Mr. RANDOLPH rose and said, that if the gentleman from New York quoted him, he hoped he would not misquote him. He had used neither the word wisdom nor cash.] Mr. TAYLOR replied, that words were only useful as a means of communicating ideas. The gentleman from Virginia may have used sagacity instead of wisdom, and treasure, wealth, or money, instead of cash. The gentleman from Virginia shakes his head. I cannot have mistaken the sentiment. His expressions, as usual, were very clear and distinct. But it is not material. The political sagacity of Virginia is unimpeached. She has manifested it in many respects, and in none more than in the ability she displays on this floor. She selects for Congress her ablest sons. She reposes in them a liberal confidence. While faithful to her interests, she continues them in her employment, thereby enabling them to honor the nation and serve the State. She instructs them not to waste their strength at home, in petty warfare, in scuffles for office, and in the gratification of private resentments. She points to the prize of high ambition, and bids them secure it. They obey her mandate. If they stumble, she upholds them. If they fall, she raises them. If they wander, she reclaims them. She publishes their virtues, and covers their errors with a mantle of charity. How unlike is Virginia in all these respects, to some of her sisters! She has set before them an example, which, failing to imitate, their complaints of her influence will remain unavailing. And, is there less danger that the principles of Virginia, in regard to slavery, will acquire popularity, and ultimately pass for those of the nation, because she is wise in her policy and maintains her consequence in every department of your Government? But let us examine what are the principles on which the United States Government is founded. Do they justify slavery? I answer, they do not. Congress, within its sovereignty, has constantly endeavored to prevent the extension of slavery, and has maintained the doctrine "that all men are born equally free." But has disclaimed, and continues to disclaim, any right to enforce this doctrine upon State sovereignties.

The first truth declared by this nation, at the era of its independence, was, "that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness."

Are we willing to pronounce this declaration, for the support of which the Fathers of our Revolution pledged their lives and fortunes, a flagrant falsehood? Was this declaration a solemn mockery? Did such men as Jefferson, Adams, Franklin, Sherman, and Livingston, proclaim to the world, as self-evident truth, doctrines they did not believe? Did they lay the foundation of this infant Republic in fraud and hypocrisy? The supposition is incredible. These men composed the committee which reported the Declaration of Independence. Four of them were delegates from Massachusetts, Pennsylvania, Connecticut and New York. They expressed the opinions of the States they represented. The sentiments of their chairman on this interesting subject are not contained in the declaration alone. If further evidence be required as to his opinions, it is abundantly furnished in his "Notes on Virginia." His denunciation of slavery is there expressed in language too distinct to be misunderstood. Its injustice is portrayed in glowing colors, and its evils described with irresistible eloquence. While books are read, or truth revered, his sentiments on this subject will insure to their author unfading honor.

In 1803, Louisiana, including the Territory of Missouri, was purchased from France. The third is the only article of the treaty relating to the subject before us. It consists of three parts; first, "the inhabitants of the ceded territory shall be incorporated into the union of the United States." This provision was to be executed immediately. It extended to all the inhabitants, wherever resident, and depended on no contingency. Without it they might have continued aliens, and have been treated like the inhabitants of a conquered province. The obligation imposed by this clause was discharged by Congress in passing the act of 1804, erecting Louisiana into two territories, and providing for the temporary government there-

of. By this act they were incorporated into the Union, and the laws of the United States were extended to them; they became part of the American family, subject to its rules and regulations, and bound to obey its authority. Their allegiance was transferred from France to the United States; they were obligated to support our constitution and obey our laws; they necessarily acquired some new privileges, and lost some formerly enjoyed; for example, they lost the privilege of employing ships in the slave trade—of buying foreign slaves—of punishing heresy, and, in short, of being governed by the colonial laws of France; and they acquired the privilege of being governed by the American Congress on principles of freedom. These consequences necessarily followed their incorporation into the Union.

The second clause is contingent, and requires that the inhabitants "shall be admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States." The subject-matter of this clause is *inhabitants* not *territory*. In all the cessions of territory previously acquired by Congress, a provision had been inserted in the compacts, "that the territory should be formed into a State or States." These compacts had been made by Congress, which had power to admit new States into the Union. But this treaty was made by the President and Senate, who had no such power. It was doubted by many whether, according to the principles of the Federal Constitution, new States could be erected in this territory, and it was uncertain whether the existing States would so amend the constitution as to confer the power. But if Congress had the power, it was uncertain when, and on what conditions, they would think proper to exercise it; and, until the general welfare of the United States should, in the opinion of Congress, require its exercise, it was not possible for them to be admitted. Moreover, the rights, advantages, and immunities, to the enjoyment of which they are to be admitted, are those of citizens of the United States. The power of holding slaves is no right, advantage, or immunity, arising from United States citizenship. Whatever those rights are, they must be uniform: that is, United States citizenship confers the same rights in New Hampshire as in Kentucky. If in Kentucky it gives the power of holding slaves, by virtue of it a citizen of the United States may hold slaves in New Hampshire. The error is in confounding the rights of United States citizenship with those arising under the laws of Kentucky. By the latter an authority to hold slaves exists: by the former it does not. The rights of United States citizenship are founded on the constitution; they are paramount to, and cannot be taken away or affected by State laws. But the right of holding slaves may be taken away by State laws; therefore it is not a right of United States citizenship, and consequently was not guaranteed to the inhabitants of this territory by treaty.

The inhabitants had no right to calculate on a power of holding slaves. Neither the principles of the constitution, nor the practice of the Government, justified that expectation. Congress had allowed slavery to exist in no territory where its allowance had not been made, by the State ceding it, an express condition of the cession. These inhabitants could not reasonably expect greater rights than were enjoyed by those of the original territory of the United States. They were authorized to expect the privilege of self-government, in the same manner as it had been granted to them; but, like them, they were subject to the determination of Congress as to time, manner, boundaries, and every other condition. The third clause of the article provides "that the inhabitants, in the mean time, shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess." Without stopping to inquire into the general signification of the word *property*, I take it for granted that it does not include the future generations of men who may be born in the territory; and the condition of those now held to service will not be changed by agreeing to the amendment. With this single remark, I proceed to observe, that the free enjoyment of property cannot mean an absolute right to use it without control; nor, that the control shall be exercised in the same manner and degree that it had been under the former government. If this were its meaning, and the treaty be considered in the nature of a charter of rights to the inhabitants, they may at this time rightfully carry on the slave trade, and do many other acts prohibited by law. But the right granted freely to enjoy their liberty, property, and religion, only requires that they shall be protected by the Constitution and laws of the United States, in the same manner as the liberty, property, and religion of other citizens, similarly situated, are protected. It is a protection according to the principles of this, and not of a foreign Government.

The act of 1804, to which I have already adverted, strongly illustrates the solicitude of Congress to prohibit the extension of slavery even in the Orleans territory. It forbade the introduction, first, of all foreign slaves; secondly, of all slaves brought into the United States after May 1, 1798, or thereafter to be imported; thirdly, of all other slaves, except by citizens of the United States, removing into the territory for actual settlement, and bona fide owning such slaves. All slaves brought into the territory of Orleans, contrary to these provisions, were entitled to freedom, and penalties were imposed on the importers. Congress could not endure the idea that even New Orleans should become a market for the sale of human flesh.

The residue of Louisiana was placed under the Government of the Governor and Judges

of Indiana, where slavery was forever prohibited by the ordinance of 1787. It was believed that these officers would apply to Missouri the same principles of government on which they were bound to administer that of Indiana. Unhappily for Missouri, these gentlemen entertained different views, and suffered the evil to increase, without an effort to retard it. The subsequent acts in regard to this Territory are of so recent a date, that it is unnecessary to detail their provisions.

The contests of party at home, and the great national questions in which we were soon involved with foreign Governments, drew the attention of Congress from this particular subject. It now is brought forward at a time when political animosities have in a good degree subsided, and every circumstance is favorable to its just decision.

The States of Ohio, Indiana, and Illinois, were admitted into the Union in 1802, 1816, and 1818, and the restriction against slavery was applied, without opposition, to all of them. They formed their constitutions accordingly, and are now reaping the rich reward of civil as well as political freedom.

The slave trade was abolished by act of 1807, to take effect on the first day of January, 1808, being the earliest day on which Congress could exercise that power.

In this manner Congress has respected the rights of man, and has endeavored, in pursuance of the principles of the United States Government, to limit the extension of slavery as much as possible.

Mr. HOLMES, of Massachusetts, rose, and spoke as follows: Mr. Chairman, when a man is fallen into distress, his neighbors surround him to offer relief. Some, by an attempt at condolence, increase the grief which they would assuage; others, by administering remedies, inflame the disorder; while others, affecting all the solicitude of both, actually wish him dead. It is so with Liberty. Always in danger—often in distress—she not only suffers from open and secret foes, but officious and unskilful friends. And among the thousands and millions that throng her temple from curiosity, fashion, or policy, how few—very few—there are, who are her sincere, faithful, and intelligent worshippers?

Among these few, I trust, are to be found all the advocates for restriction in this House. And I readily admit that most of those out of doors, whose zeal is excited on this occasion, are of the same description. But, is it not probable that there are some jugglers behind the screen who are playing a deeper game—who are combining to rally under this standard, as the last resort, the forlorn hope of an expiring party?

But, while we admit this in behalf of the respectable gentlemen who advocate the restriction of slavery in Missouri, we ask, may we demand of them the same liberality? We are not the advocates or the abettors of slavery. For one, sir, I would rejoice if there was not a slave on earth. Liberty is the object of my love—my adoration. I would extend its blessings to every human being. But, though my feelings are strong for the abolition of slavery, they are yet stronger for the constitution of my country. And, if I am reduced to the sad alternative to tolerate the holding of slaves in Missouri, or violate the constitution of my country, I will not admit a doubt to cloud my choice. Sir, of what benefit would be abolition, if at a sacrifice of your constitution? Where would be the guarantee of the liberty which you grant? Liberty has a temple here, and it is the only one which remains. Destroy this, and she must flee—she must retire among the brutes of the wilderness—to mourn and lament the misery and folly of man.

The proposition for the consideration of the committee is to abolish slavery in Missouri, as a condition of her admission into the Union.

This constitution which I hold in my hand I am sworn to support, not according to legislative or judicial exposition, but as I shall understand it; not as private interest or public zeal may urge, but as I shall believe; not as I may wish it, but as it is.

I have carefully examined this constitution, and I can find no such power. I have looked it through, and I am certain it is not in the book. This power is not express, and, if given at all, it must be constructive. This amplifying power by construction is dangerous, and will, not improbably, effect the eventual destruction of the constitution. That there are resulting or implied powers, I am not disposed to deny; but they are only where the powers are subordinate and the implication necessary. All powers not granted are prohibited, is a maxim to which we cannot too religiously adhere.

I come now to the power of Congress. And my first proposition is, that Congress cannot restrict a State which was party to the compact in the exercise of a political power not surrendered by the constitution. This is a political axiom which scarcely admits of proof or illustration. The tenth article of the amendment preserves every power not surrendered. If it did not, and Congress could take, they might another, until the States were robbed of every attribute of sovereignty. Remark, sir, that I confine the proposition to existing States. I am disposed to do one thing at a time; this is enough for my present purpose. If this principle is established, and it appears to establish itself, I proceed to my second proposition, that the power to restrict an existing State, in the admission or rejection of slavery, is not surrendered to Congress by the constitution.

And here, sir, I cannot but notice the confusion that exists in the ranks of the advocates of restriction. Two gentlemen have addressed the committee, one before and the other since the proposition was made. Instead of presenting us with one single precept, one source of this power, they have presented six! From that of laying and collecting taxes, &c.,

regulating commerce, prohibiting migration and importation, admitting new States, governing territories, and making treaties! And, what is singularly unfortunate, the gentlemen agree only in one of the six, and that the most exceptionable and least plausible of the whole. These are all disconnected and distinct, and this power can be derived from only one of them. The gentlemen serve us up six different and very indifferent dishes, and offer us our choice. We demand of them the power—the true genuine coin, and no counterfeit. They present us six pieces, five of which are unquestionably base, and tell us they all look so much alike that they cannot distinguish, and we must select for ourselves. What should we answer? Precisely what we do; we will take neither, for we believe them all counterfeit. This is not the whole. The memorialists, and others abroad, have furnished some ten or a dozen more sources of this power.

There seemed to be some doubt as to the meaning of this ninth section of the first article of the constitution. I believe I entertained an opinion last session, which I then expressed, that migration and importation related wholly to slaves; the former to bringing by land, and the latter by water. I was led to this by the circumstance that the taxation was confined to importation—presuming that the difficulty of taxation, in case of bringing by land, was the reason why "migration" was dropped in the latter part of the clause. Although this construction is better than theirs, I am satisfied it is not the best. The error consists in using the words very differently from their common and ordinary import. Take the sentence as it is, and it is plain enough—"the migration or importation of such persons as the existing States shall see cause to admit, shall not be prohibited," &c. "Persons" means slaves, when applied to importation, and free persons, when applied to migration. The former implies constraint, and excludes volition; the latter implies volition, and excludes constraint. Importation is bringing either by land or water; migration is a voluntary going from one jurisdiction or sovereignty to another. The Convention were then speaking of persons coming from abroad: importing of slaves could not be prohibited entirely; a tax was the only restraint that could be obtained before 1808. But the policy of the United States would not allow a tax on migration, or voluntary coming. Such a tax on foreigners might be urged, from motives of popularity, against the general policy of the nation. A right to prohibit this introduction of foreigners would not be exercised except when, upon necessary or extraordinary occasions, the safety of the nation might require it. It was proper, then, that Congress should have power to prohibit, but not to tax, strangers emigrating from abroad. When this clause was reported by a committee of the Convention, the taxation extended to migration as well as importation. Had the Convention understood that this word related only to a transfer from one State to another, would the committee have reported this provision, in direct contradiction to another clause of the same section? While the clause was under debate in the Convention, a member proposed to insert the word "free" before "persons." Had this been the meaning of the word, no one, unless he was delirious or in sport, would have proposed an amendment which would have operated to authorize Congress to prohibit a transfer of none but free persons from one State to another.

I trust I have succeeded in proving that Congress cannot restrict a State which was party to the compact, in the exercise of a political power not surrendered by the constitution; that the political power of a State which was party to the compact, to establish or prohibit slavery, is not surrendered by the constitution, and therefore cannot restrict an original State in the exercise of this power.

FRIDAY, January 28.

The Missouri Bill.

The House then again went into committee on this subject, (Mr. BALDWIN in the chair.)

Mr. SMYTH, of Virginia, addressed the Chair. He said that the constitutionality of the measure proposed was the subject which he intended first to consider. The constitution, said he, provides that "new States may be admitted by Congress into this Union." If, then, a new State is admitted into "this Union," must it not be on terms of equality? Can the old States, the first parties to this Union, bind other States farther than they themselves are bound? Can they bind the new States not to admit slavery, and preserve to themselves the right to admit slavery? Shall the old States preserve rights of which the new States shall be deprived? Can this Government demand of the new States a right to exercise powers over them that it cannot exercise over the old States? If so, you may demand of the new States power to legislate over them as you legislate over the District of Columbia. Can you stipulate with a new State that she shall have but one Senator; that her representation in this House shall be apportioned by the number of her free inhabitants only; that she shall not appoint her full number of Electors of the President; or that she shall not have a republican form of government? You cannot, for the constitution fixes the rights of every State in these respects. Can you stipulate for the regulation of the press, for the establishment of religion, or for a power to appoint militia officers? You cannot, for in these respects also, the rights of the States are declared by the constitution. And if you cannot stipulate for the exercise of a power prohibited, you cannot stipulate for the exercise of a power withheld.

Will you not admit that you cannot stipulate for a power to appoint militia officers in a new State? You will; because that power is spe-

cially, and in direct terms, reserved to the States. All powers not granted are reserved in general terms. If the power is reserved, is it not the same, whether it be reserved in direct or in general terms? It is the same. A power reserved to the States or to the people, either in direct or in general terms, you cannot exercise without committing an act of usurpation.

The case supposed, of stipulating for power to appoint militia officers, illustrates the danger which might arise to freedom by forming a new class of States, over which this Government should possess powers different from those which it exercises over the old States. A consolidated government might be established over such new States. At the time of the Revolution it was a cause of complaint against the British King, that, by acquiring Canada, and establishing a despotic government therein, he endangered the liberty of the American Colonies. The people would never have adopted the constitution, had they supposed that Congress was to exercise over the new States powers different from those granted by the constitution.

The legislative power of every State is originally co-extensive. Each State, by the constitution, commits an equal portion of its legislative powers to Congress; and all the residue is reserved to the States, unless prohibited to them, or to the people. The only powers of this Government are given by the constitution. The powers granted are to be exercised over every State; and the powers reserved, are retained by every State. In Pennsylvania and in Virginia, the power to legislate respecting slavery is in the Legislature. In Ohio and Indiana that power is in the people, who have denied it to their Legislatures. No power has been delegated to Congress to legislate on that subject. The constitution provides that, "the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." The powers not delegated being reserved to the States, respectively, are reserved to each of the States, whether new or old.

Has the power to legislate over slavery been delegated to the United States? It has not. Has it been prohibited to the States? It has not. Then it is reserved to the States, respectively, or to the people. Consequently, it is reserved to the State of Missouri, or to the people of that State. And any attempt by Congress to deprive them of this reserved power, will be unjust, tyrannical, unconstitutional, and void.

The only condition that may constitutionally be annexed to the admission of a new State into this Union is, that its constitution shall be republican. This the constitution authorizes us to require, and it is the only condition that is necessary. We possess power to make all needful regulations respecting the territorial property of the United States. Our acts in pursuance of the constitution are paramount to the laws of any State. When we pursue our constitutional authority, we need no aid from stipulations; and when we exceed it, our acts are acts of usurpation, and void.

It has been questioned by some, whether a constitution can be said to be republican, which does not exclude slavery. But we must understand the phrase, "republican form of government," as the people understood it when they adopted the constitution. We are bound by the construction which was put upon the constitution by the people. It would be perfidious toward them to put on the constitution a different construction from that which induced them to adopt it.

The people of each of the States who adopted the constitution, except Massachusetts, owned slaves; yet they certainly considered their own constitutions to be republican. And the Federal Government has not, by virtue of its power to guarantee a republican constitution to each State in the Union, required a change of the constitution of any one of those States.

The constitution recognizes the right to the slave property, and it thereby appears that it was intended, by the Convention and by the people, that that property should be secure. The representation of each State, in this House, is proportioned by the whole number of free persons, and three-fifths of the number of the slaves. In forming the constitution, the Southern States, Virginia excepted, insisted on, and obtained a provision, authorizing them to import slaves for twenty years.* And the constitution provides that slaves running away from their masters in one State, and going into another, shall be delivered up to their masters.

But the gentleman from New York contended, that, by a "person held to service or labor in one State, under the laws thereof," the constitution means an apprentice, or bound servant. Sir, the definition of a word conveys its meaning to our understandings more clearly than the word itself; and the very best definition of the word "slave" that can be given, is, a person held to service or labor under the laws of a State. The constitution describes apprentices or bound servants as "those bound to service for a term of years;" and directs that they shall be included in the number of free persons. The apprentice

* *Extract from Luther Martin's report to the Legislature of Maryland.*

"We were then told by the delegates of the two first of those States, (Georgia and South Carolina,) that their States would never agree to a system which put it in the power of the General Government to prevent the importation of slaves; and that they, as the delegates from those States, must withhold their assent from such a system."

The clause referred to relates solely to the importation of slaves from abroad. The Convention used the words, "migration or importation" as synonymous. In like manner they say, tax or duty, alliance or confederation, imposts or duties, agreement or compact, service or labor, resolution or vote, for the purpose of elucidating their meaning. This clause at one time stood thus before the Convention: "The migration or importation of such persons as the several States, now existing, shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1800; but a tax or duty may be imposed on such migration or importation at a rate not exceeding the average of the duties laid on imports." This proposition to lay an ad valorem duty, shows that nothing was in the contemplation of the Convention but the slave trade.

or bound servant is bound to service or labor by contract; the slave is held to service or labor by law. A person "held to service or labor" is the constitutional and legal definition of the word "slave," and is superadded to the word "slave" or "slaves," in one act of Congress for suppressing the slave trade no less than eight times.* Thus the obligation of State laws, which hold men to service or labor, is acknowledged by the constitution, and by the laws of the United States.

To render this right, with other rights, still more secure, Virginia, in adopting the constitution, declared that "no right, of any denomination, can be cancelled, abridged, restrained, or modified, except in those instances in which power is given by the constitution for those purposes;" and New York declared, "that every power, jurisdiction, and right, which is not by the said constitution clearly delegated to the Congress of the United States, remains to the people of the several States, or to their respective State Governments." Several of the other States made similar declarations. But the States were not content to declare their rights. An amendment to the constitution declares that: "The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The right to own slaves being acknowledged and secured by the constitution, can you proscribe what the constitution guarantees? Can you touch a right reserved to the States or the people? You cannot.

If you possessed power to legislate concerning slavery, the adoption of the proposition on your table, which goes to emancipate all children of slaves hereafter born in Missouri, would be a direct violation of the constitution, which provides that "no person shall be deprived of property without due process of law; nor shall private property be taken for public use without just compensation." If you cannot take property even for public use, without just compensation, you certainly have not power to take it away for the purpose of annihilation, without compensation. And, if you cannot take away that which is in existence, you cannot take away that which will come into existence hereafter. If you cannot take away the land, you cannot take the future crops; and if you cannot take the slaves, you cannot take their issue, who, by the laws of slavery, will be also slaves. You cannot force the people to give up their property. You cannot force a portion of the people to emancipate their slaves.

By adopting this proposition, you will have proved that the clauses of the constitution deemed most sacred by the people, are not sacred with you. The constitution was the work of politicians. The amendments were the work of the people. They are the parts of the constitution which protect the rights of the people. The amendment which secures property, you are about to violate by emancipating, without the consent of the masters, the offspring of ten thousand slaves.

The people of Missouri will be rightfully bound by our laws made for the whole Union; but we have no right to make local laws for the people of Missouri alone. We have no right to pass partial laws, that shall operate in some of the States, and not in others.

You cannot limit the new States in the exercise of their retained powers. Whether slavery shall exist or not in the new States, must depend on the free will of the State Legislatures, and of the people. If you can in this way prescribe the course of legislation on one subject, you can on any subject or on every subject.

No State can be bound not to change its constitution. The same right which Pennsylvania has of self-government, every new State must possess of self-government. They are bound to adopt a republican constitution, for that is a law of the whole Union.

If you impose on Missouri the contemplated restriction, and Missouri forms her constitution accordingly, it will not be your act, but the act of Missouri that will become a law. Then suppose Missouri changes her constitution; as she made the law, she can repeal it. Your act can have no force, because not passed in pursuance of the Constitution of the United States. The acts of Congress, passed in pursuance of the constitution, are laws; but the stipulations or declarations of Congress, not authorized by the constitution, are not laws; and they can have no sanction; for it is only the acts passed in pursuance of the constitution that are the supreme laws of the land. If your act is a law, it needs not the aid or consent of Missouri; and if Missouri is to pass the law, Missouri may repeal it. But this, say our opponents, would be perfidious on the part of Missouri; they will not presume that Missouri would violate her plighted faith. They detest all perfidy except that which they themselves recommend. This would not be perfidy on the part of Missouri. The people of Missouri would only have eluded the effects of the perfidy of those who would have violated a solemn treaty.

It has seemed to some that as Ohio was required to form a constitution agreeing with the ordinance of Congress of 1787, which excluded slavery from the territory northwest of the Ohio River, therefore Missouri may be likewise required to exclude slavery by her constitution. Whatever be the effect of the ordinance of 1787, it has no application to Missouri. But I contend that Ohio is not bound by the ordinance; that she is at liberty to decide as she pleases the question, whether she will or will not exclude slavery.

It has been said that the constitution vests in Congress a power to make all needful regulations respecting the territory of the United States; and this power, it is supposed, authorizes us to exclude slaves from the territories of the United States, and also to demand from any

* Vol. 4 Laws, p. 94.

of those territories about to become States, a stipulation for the exclusion of slaves. The clause of the constitution referred to reads thus: "The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States." It has been contended that this gives a power of legislation over persons and private property within the territories of the United States. The clause obviously relates to the territory belonging to the United States, as property only. The power given is to dispose of, and make all needful regulations respecting, the territorial property, or other property of the United States; and Congress have power to pass all laws necessary and proper to the exercise of that power. This clause speaks of the territory as property, as a subject of sale. It speaks not of the jurisdiction.* That the convention considered as being provided for by the ordinance of Congress.† This clause contains no grant of power to legislate over persons and private property within a territory. A power to dispose of, and make all needful regulations respecting the property of the United States, is very different from a power to legislate over the persons and property of the people. When it was the intention of the Convention that the constitution should convey to Congress power to legislate over persons and private property, they expressed themselves in terms not doubtful. Thus, they said, "Congress shall have power to exercise exclusive legislation in all cases whatsoever," within the ten miles square. But no such power to legislate over the territories is granted. The power is, to dispose of, and make all needful regulations respecting the property of the United States. When that is sold and conveyed, it ceases to be an object of the power to make regulations respecting the property of the United States; and if the construction contended for by our opponents be correct, and Congress possess power to legislate for a territory, that would not authorize them to make regulations which should continue in force when the territory became a State, and the United States ceased to own property therein.

By treaty we are bound to admit Missouri into the Union; to allow her a representation for her slaves; to guarantee to her a republican form of government, (that is, a government by and for the people themselves, not a government imposed on them, nor a patrimonial government;) and to leave her all power not delegated by the constitution to the United States, nor prohibited by it to the States. Treaties are in part the supreme law of the land, and paramount to the constitution of any State; yet you propose to violate the treaty with France by the means of a State constitution, which is of inferior obligation to a treaty.

It has been urged, not indeed at this session, as a reason for violating the treaty with France, that the present Government of that nation will not insist on the strict performance of its stipulations. Although the right of the people of Missouri rests on a treaty, the question arises between them and their own Government; and it would be considered criminal in them to apply for protection to any other Government. But the former sovereign of the country has made a stipulation on behalf of the people, and to that stipulation we have agreed in the most solemn manner. If we do not perform our engagements, we shall be deemed a perfidious, faithless nation; and yet it has been proposed to violate the treaty, because the powerful Monarch with whom we made it reigns no more.

Will you be unjust, false, and perfidious, because you are powerful? Would it be honorable to violate a treaty because those who claim the benefits of its provisions are our own citizens? Should the treaty with Spain be ratified, will you refuse to pay your own citizens for Spanish spoliations, because Spain, who stipulated on their behalf, is not likely to declare war against you if you do not? By your constitution, a treaty is the supreme law of the land, and paramount to the constitution which you propose to force Missouri to adopt. You may, indeed, repeal the treaty by an act of Congress; but the effect of a measure of that kind should be well considered. And you must repeal the treaty directly or by implication before the proposed measure can have the desired effect; for the treaty, until it is repealed, is paramount to the imposed constitution; and the judges would sustain it.

Beware! You have no right to Missouri but what the treaty gives you. The treaty gives you Missouri, on condition that you secure the

* This clause, as first proposed in Convention, read thus: "To dispose of the unappropriated lands of the United States; to institute temporary governments for new States arising therein." The latter power was not granted. See Journal Convention, page 260.

† Mr. Smyth is very distinct here upon a much contested point. He considers the "needful rules and regulation" clause as applying to property only, and that the property of the United States. He considers it no grant of the jurisdiction, or the right of government, that (to wit, jurisdiction and government) being provided for in the ordinance. This is historically and logically true. The ordinance was the constitution of the territories, made for them at the same time, (and, it may be said, by the same men,) who made the constitution for the States. It was not necessary for the new constitution to provide for the territorial governments, because their own constitutions had done it. And that territorial constitution, to wit, the ordinance of '87, was part and parcel of the new system, going with the new constitution, and doing for the territories what the constitution was doing for the States. The territories had no share in the constitution, and looked to the ordinance and the power of Congress for their governments. The ordinance of '87 was not made under the articles of confederation; for no power to make it is there; but as an incident to sovereignty and ownership, and in virtue of the compacts with the ceding States. The new territories are governed by the same rights of ownership of soil and sovereignty, and by virtue of the compacts with the powers from which they are acquired.

property of the inhabitants, and incorporate them into the Union of the United States, with all the rights of citizens, according to the principles of the Federal Constitution, which reserves to them all powers not delegated by that constitution. If I receive a deed on condition, I am bound to perform the condition. Every engagement in a treaty is a condition, the breach of which releases the other party from his engagements.* Perhaps they are mistaken who suppose that the present Government of France is deficient in spirit and honor, and will not insist on the observance of existing treaties made with France. Would not England like to see France and the United States brought into collision? Would not all Europe be pleased to see the power of France interposed between the United States and Mexico? France wants colonies and commerce; and half the people of Louisiana are Frenchmen.

I will next consider the effect which the proposed measure may have upon the safety of the community. There were in the United States, at the taking of the last census, of free whites 5,765,000, of slaves 1,165,000, or about one slave to five free whites. There were of free blacks 181,000, making the whole number of the blacks about 1,346,000, there being more than four whites to one black. Now, it is apparent that, were these people equally dispersed in every district, county, and town, of every State, there would be no danger from any insurrectional movement by them in any part of the United States. Equal dispersion would produce not only an increase of comfort to the slaves, but also perfect security to the whites.

Let us suppose that, instead of being dispersed through ten of the States, as they now are, that the slaves were all collected in Virginia; that State would then have—whites 551,000, blacks 1,346,000, or about five blacks to two whites. What would be the consequence? Let St. Domingo answer. But Virginia has actually 392,000 slaves, or about eight slaves to eleven white persons. She is yet safe, if her legislators have foresight, decision, and firmness. And I hope it will never be said of Virginia, "Died Abner as a fool dieth: thy hands were not bound, nor thy feet put into fetters."

As equal dispersion of the slaves would be perfect security, and concentration of them in a single State would be probable destruction, what may be said of the policy of the amendment on your table, which proposes to return upon the old States, or throw into Mississippi and Louisiana, where they are already too numerous, ten thousand slaves from Missouri. It is evident that the more you concentrate them, the greater the danger; the more you disperse them, the greater the safety. Where the proportion of the slaves to the free persons is too great, it ought, by all just means, to be lessened.

Dispersion is the true policy to pursue towards a distinct people, whose numbers in any part of an empire endanger its peace. Thus Salmanazar dispersed the Israelites throughout his empire; and Vespasian, Adrian, and Constantine, dispersed the Jews. It was good policy in Valens to disperse the children of the Goths, in Asia. So in our own times, the British finding that the Maroons were dangerous in Jamaica, transported them to Nova Scotia. Suppose that fifty thousand prisoners had been taken in the late war, would you have deemed it safe to have cantoned the whole of them in Vermont? Or would you not have dispersed them through several of the States? Doubtless you would have dispersed them. And for the same reason you should disperse the slaves.

The tendency of the proposition to create jealousies between the States, deserves serious consideration. It seems to me to be a sacred duty of those who govern this nation, to guard against every cause of division with the utmost care, and to practise forbearance. The constitution was formed in a spirit of concession; and it has been, and will be, necessary to administer it in the same spirit. The people of the South deem the proposed measure a serious wrong. That circumstance alone should be a sufficient objection to any measure which cannot be shown to be essential to the preservation of the community. In the effects of the embargo we have seen how impolitic it is to adopt a measure against the general opposition of a large section of the country. We saw that measure repealed for want of power to enforce it; but not until it had produced extensive disaffection, which, in the last war, paralyzed the right arm of the United States, and led to that convention, which is now the subject of universal regret.

You are about to prove to the Southern and Western people that their property and their lives are unsafe under your Government; that you mean to violate their claim of a right to make laws for themselves. It will not be good policy to convince the Southern and Western people of this. Are you certain that injustice cannot have the effect of breaking the bands of the Union? Doubtless they are strong; but the attachment to life, property, and the rights of freemen, is stronger. The States who hold slaves cannot consent that any State shall surrender to this Government power over that description of property. Its value amounts to five hundred millions of dollars. Power over it has not been granted to this Government for any purpose, except that of taxation; nor can power over it be obtained by the concession of particular States, or otherwise than by an amendment to the constitution.

Every State is interested that every other State shall preserve its rights. The States should possess the same rights, so that the invasion of the rights of one should be the invasion of the rights of all. You will unite in opposition ten of the States; you will form local parties, the most dangerous of all parties; you will unite the State governments, defending State rights, to the people, defending their prop-

* Grotius.

erty to the amount of five hundred millions. Louisiana, being equally interested in the construction of the treaty, must make common cause with Missouri, and the other slaveholding States may make common cause with them.

If you let the people of Missouri alone to exercise the right of self-government, as it is exercised by the people of the other States, perhaps they may of themselves exclude slavery. If such is their sovereign will and pleasure, be it so. Let the will of the people be done. But if you attempt to force your own will upon them, perhaps they may know and duly appreciate their rights. Then they will not give up the sacred right of self-government. The people who have not a right to legislate for themselves are not free. They do not enjoy a republican form of government. It would be an event to be lamented if any portion of this free people should give up their constitutional rights.

TUESDAY, February 1.

The Missouri Bill.

The House then again went into Committee of the Whole, on this bill—the proposed restriction still under consideration.

Mr. REID, of Georgia, addressed the House. That this was a question deeply interesting to that quarter of the Union whence he had the honor to come, was the only apology he urged for offering his opinions to the committee.

The subject (he continued) is said to be delicate and embarrassing. It is so, and particularly in one point of view. The sentiments, to which the heat and ardor of debate gave expression, will not expire here, like the broken echoes of your Hall! They will penetrate to the remotest corners of the nation, and may make an impression upon the black population of the South, as fatal, in its effects to the slave, as mischievous to our citizens. This not mere idle surmise. In a professional capacity, I was recently concerned for several unhappy beings, who were tried and convicted of a violation of the laws, by attempted insurrection. They had held conversations, as the testimony developed, with certain itinerant traders, who not only poisoned their minds, but incited them to rebellion—by proffered assistance. Such influence have the opinions of even the most depraved and ignorant white men upon this unfortunate race of people. But the subject is neither delicate nor embarrassing, as it is considered to imply reproach, or a high offence against the moral law—the violation of the liberty of our fellow-men. Such imputations "pass by us as the idle wind, which we respect not." They are "barbless arrows, shot from bows unstrung!" The slaveholding States have not brought this calamity upon themselves. They have not voluntarily assumed this burden. It was fastened upon them by the mother country, notwithstanding the most earnest entreaties and expostulations. And, if the gentlemen were well acquainted with the true state of slavery in the South, (I speak particularly of Georgia, for my information extends little farther,) I am very sure their understandings would acquit us of the charges which their imaginations prefer.

Sir, the slaves of the South are held to a service which, unlike that of the ancient villein, is certain and moderate. They are well supplied with food and raiment. They are "content, and careless of to-morrow's fare." The lights of our religion shine as well for them as for their masters; and their rights of personal security, guaranteed by the constitution and the laws, are vigilantly protected by the courts. It is true, they are often made subject to wanton acts of tyranny; but this is not their peculiar misfortune! For, search the catalogue of crimes, and you will find that man—the tyrant—is continually preying upon his fellow-men; there are as many white as black victims to the vengeful passions and the lust of power! Believe me, sir, I am not the panegyrist of slavery. It is an unnatural state; a dark cloud which obscures half the lustre of our free institutions! But it is a fixed evil, which we can only alleviate. Are we called upon to emancipate our slaves? I answer, their welfare—the safety of our citizens, forbid it. Can we incorporate them with us, and make them and us one people? The prejudices of the North and of the South rise up in equal strength against such a measure; and even those who clamor most loudly for the sublime doctrines of your Declaration of Independence, who shout in your ears, "all men are by nature equal!" would turn with abhorrence and disgust from a party-colored progeny! Shall we then be blamed for a state of things to which we are obliged to submit? Would it be fair; would it be manly; would it be generous; would it be just; to offer contumely and contempt to the unfortunate man who wears a cancer in his bosom, because he will not submit to cautery at the hazard of his existence? For my own part, surrounded by slavery from my cradle to the present moment, I yet

> "Hate the touch of servile hands;
> I loathe the slaves who cringe around:"

and I would hail that day as the most glorious in its dawning, which should behold, with safety to themselves and our citizens, the black population of the United States placed upon the high eminence of equal rights, and clothed in the privileges and immunities of American citizens! But this is a dream of philanthropy which can never be fulfilled; and whoever shall act in this country upon such wild theories, shall cease to be a benefactor, and become a destroyer of the human family.

The Constitution of the United States is plain and simple; it requires no superiority of intellect to comprehend its dictates; it is addressed to every understanding; "he who runs may read." It is, then, a proof of the absence of all authority for the proposed measure, when its advocates, and some, too, of great names, fly from clause to section and from section to arti-

cle, without finding "rest for the sole of the foot;" without finding or agreeing upon any one line, phrase, or section, whence this power for which all contend may be brought into existence. And it is perfectly natural that this effect should be produced. A search for the philosopher's stone might as soon be expected to end in certainty.

But it is argued that Congress has ever imposed restrictions upon new States, and no objection has been urged until this moment. If it be true, that only one condition can constitutionally be imposed, it would seem that any other is null and void, and may be thrown off by the State at pleasure. And then this argument, the strength of which is in precedent, cannot avail. Uniformity of decision for hundreds of years cannot make that right which at first was wrong. If it were otherwise, in vain would science and the arts pursue their march towards perfection; in vain the constant progress of truth; in vain the new and bright lights which are daily finding their way to the human mind, like the rays of the distant stars, which, passing onward from the creation of time, are said to be continually reaching our sphere. *Malus usus abolendus est.* When error appears, let her be detected and exposed, and let evil precedents be abolished.

It is true that the old Confederation, by the 6th section of the ordinance of 1787, inhibited slavery in the territory northwest of the Ohio, and that the States of Ohio, Illinois, and Indiana, have been introduced into the Union under this restriction.

Sir, the ordinance of 1787 had an origin perfectly worthy of the end it seems destined to accomplish. It had no authority in the Articles of Confederation, which did not contemplate, with the exception of Canada, the acquisition of territory. It was in contradiction of the resolution of 1780, by which the States were allured to cede their unlocated lands to the General Government, upon the condition that these should constitute several States, to be admitted into the Union upon an equal footing with the original States. It is in fraud of the acts of cession by which the States conveyed territory in faith of the resolution of 1780. And, when recognized by acts of Congress, and applied to the States formed from the territory beyond the Ohio, it is in violation of the Constitution of the United States. So much for the efficacy of the precedent which, although binding here, is not, it would seem, of obligation upon Ohio, Indiana, or Illinois, or, if you impose it, upon Missouri. It is not the force of your legal provisions which attaches the restrictive 6th article of the ordinance to the States I have mentioned. It is the moral sentiment of the inhabitants. Impose it upon Missouri, and she will indignantly throw off the yoke and laugh you to scorn! You will then discover that you have assumed a weapon that you cannot wield—the bow of Ulysses, which all your efforts cannot bend. The open and voluntary exposure of your weakness will make you not only the object of derision at home, but a byword among nations. Can there be a power in Congress to do that which the object of the power may rightfully destroy? Are the rights of Missouri and of the Union in opposition to each other? Can it be possible that Congress has authority to impose a restriction which Missouri, by an alteration of her constitution, may abolish? Sir, the course we are pursuing reminds me of the urchin who, with great care and anxiety, constructs his card edifice, which the slightest touch may demolish, the gentlest breath dissolve.

But let us stand together upon the basis of precedent, and upon that ground you cannot extend this restriction to Missouri. You have imposed it upon the territory beyond the Ohio, but you have never applied it elsewhere. Tennessee, Vermont, Kentucky, Louisiana, Mississippi, and Alabama, have come into the Union without being required to submit to the condition inhibiting slavery; nay, whenever the ordinance of 1787 has been applied to any of these States, the operation of the 6th article has been suspended or destroyed. According, then, to the uniform tenor of the precedent, let the States to be formed of the territory without the boundaries of the territory northwest of Ohio remain unrestricted, and in the enjoyment of the fulness of their rights.

Thus, it appears to me, the power you seek to assume is not to be found in the constitution, or to be derived from precedents. Shall it, then, without any known process of generation, spring spontaneously from your councils, like the armed Minerva from the brain of Jupiter? The Goddess, sir, although of wisdom, was also the inventress of war—and the power of your creation, although extensive in its dimensions, and ingenious in its organization, may produce the most terrible and deplorable effects. Assure yourselves you have not authority to bind a State coming into the Union with a single hair! If you have, you may rivet a chain upon every limb, a fetter upon every joint. Where, then, I ask, is the independence of your State governments? Do they not fall prostrate, debased, covered with sackcloth and crowned with ashes, before the gigantic power of the Union? They will no longer, sir, resemble planets, moving in order around a solar centre, receiving and imparting lustre. They will dwindle to mere satellites, or, thrown from their orbits, they will wander "like stars condemned, the wrecks of worlds demolished!"

I beg leave to offer a few words upon the expedience of this amendment, and I declare myself at a loss to divine the motive which so ardently presses its enactment. It is said that humanity, a tender concern for the welfare, both of the slave and his master, is the moving principle. And here I cannot refrain from repeating the words of a periodical writer, as remarkable for his good taste as the justness of his sentiments: "The usual mode," says he, "of making a bad measure palatable to a virtu-

ous and well-disposed community, is that of holding it up as conducing to some salutary end, by which the whole people are eventually to be greatly benefited. "It is thus that every mischievous public measure is sheltered behind some pretext of public good." But it is a question which deserves consideration, whether, if slavery be confined to its present limits, the situation of the master or the slave, or both, will be made better? Will not the increased number of slaves, within a given space, diminish the means of subsistence? Will not the number of masters diminish as the number of slaves increases? And what are the consequences? Extreme wretchedness, penury, and want, to the slave; care, anxiety, imbecility, and servile war to the master! Then, indeed, will be produced what the advocates of this amendment so much deprecate—tyranny, in all its wantonness, on one hand, despair and revenge on the other. At this moment the situation of the Southern slave is, in many respects, enviable. Adopt your restriction, and his fate will not be better than that of the mastiff, which howls all day long from the kennel, where his chains confine him. But, let the dappled tide of population roll onwards to the West; raise no mound to interrupt its course, and the evil, of which we on all sides so bitterly complain, will have lost half its power to harm by dispersion. Slaves, divided among many masters, will enjoy greater privileges and comforts than those who, cooped within a narrow sphere, and under few owners, will be doomed to drag a long, heavy, and clanking chain through the space of their existence. Danger from insurrection will diminish. Confidence will grow between the master and his servant. The one will no longer be considered as a mere beast of burden; the other as a remorseless despot, void of feeling and commiseration. In proportion as few slaves are possessed by the same individual, will he look with less reluctance to the prospect of their ultimate liberation. Emancipations will become common, and who knows but that the Great Being, to whose mercies all men have an equal claim, may, in the fulness of his time, work a miracle in behalf of the trampled rights of human nature? Sir, humanity, unless I am egregiously deceived, disclaims those doctrines, the practical result of which is to make the black man more wretched, and the white man less safe. She turns with shivering abhorrence from the fetters which, while you affect to loosen, you clasp more firmly around the miserable African.

But, let gentlemen beware! Assume the Mississippi as the boundary. Say, that to the smiling Canaan beyond its waters, no slave shall approach, and you give a new character to its inhabitants, totally distinct from that which shall belong to the people thronging on the east of your limits. You implant diversity of pursuits, hostility of feeling, envy, hatred, and bitter reproaches, which

> "Shall grow to clubs and naked swords,
> To murder and to death."

If you remain inexorable; if you persist in refusing the humble, the decent, the reasonable prayer of Missouri, is there no danger that her resistance will rise in proportion to your oppression? Sir, the firebrand, which is even now cast into your society, will require blood—ay, and the blood of freemen—for its quenching. Your Union shall tremble, as under the force of an earthquake! While you incautiously pull down a constitutional barrier, you make way for the dark, and tumultuous, and overwhelming waters of desolation! If you "sow the winds, must you not reap the whirlwind?"

Mr. CLAGETT, of New Hampshire, rose and addressed the Chair as follows: Mr. Chairman, when I reflect that the subject under consideration involves a constitutional question of the first magnitude, in which the whole Union is deeply interested, I confess I feel fully sensible of my own inability to perform that duty which I owe to those I represent, and to my country. Nor am I insensible to the solicitude felt by this honorable body, while this discussion proceeds. But as equal solicitude, and, probably, greater, agitated the Convention who formed our constitution, when the same subject was before them; and, as their deliberations closed, so, I hope ours will, in a spirit of amity. Theirs was the greater task; they had a compromise to make: we find it already made; they had a constitution to form: we find one already formee. With these impressions, and a full sense of my own responsibility for the course I pursue, and for the motives by which I am governed, I ask your attention to the brief view of the subject which my best reflections enable me to present. And, sir, it will be my endeavor to avoid every thing contrary to that spirit of harmony so desirable; and I regret that any remarks should have been made which may require animadversion or retort.

Mr. Chairman, I have said that, among the statesmen who formed this constitution, were many of those who subscribed to the Declaration of Independence, the Act of Confederation, and established the Ordinance of 1787; and in all their proceedings it evidently appears that they considered slavery as a great evil, and inconsistent with those pure principles of liberty for which they contended; and in no act is this more apparent than in that ordinance by which slavery is expressly excluded from all the Territory and States northwest of the river Ohio, forever. But the same subject was among the most perplexing and painful in the Convention who formed the constitution, as appears by their journals. Slavery had been introduced, indeed, under a Government whose principles were not congenial with ours. It was an existing evil in our land, and could not be immediately eradicated, but it could be restricted, and further extension of the evil prohibited. After much agitation, this course was amicably agreed upon, as clearly appears from the constitution: leaving it, however, with such original States where the evil existed, to regulate their

own internal concerns, and giving to Congress full power over this subject in all other respects, but suspending the operation of that power until the year 1808.

Sir, let me ask your attention to the 9th section of the 1st article of the constitution; and, if we keep in view the principle contended for, the object to be attained, it would seem that we must come to a correct conclusion. "The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by Congress prior to the year 1808; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

Sir, plain as this section really is, different constructions have been attempted. The honorable gentleman from Massachusetts, last mentioned, has facetiously called upon the friends of this amendment to agree. Sir, I have perceived no material disagreement on this side of the question, but have noticed a little on the other, and must be permitted to retort the remark. The honorable gentleman contends that the term "migration" applies only to free persons, (emigrants;) but the honorable gentleman from Virginia (Mr. SMYTH,) who followed on the same side, contends that it applies only to slaves; and here the two honorable gentlemen seem to be at issue. But the honorable gentleman from Massachusetts frankly confesses that his "first impressions led him to the opinion that the term migration, as here used, applied only to slaves." Sir, I am convinced the "first impressions" of the honorable gentleman from Massachusetts were correct; and that "first impressions" should not be too soon surrendered. But, sir, the words "migration" and "importation," though different in signification, both apply here to the same persons—to "such persons as any of the States now existing shall think proper to admit." Migration, in common parlance, is the act of removing from place to place; and, as used here, can only mean from State to State; because the compact was between States, and was intended to protect non-slaveholding States against the intrusion of slaves, and to restrict them within the States where the evil was tolerated. "Importation" means bringing from abroad, and can have no other meaning, and was intended to prevent the farther introduction of slaves from abroad.

The words "such persons as any of the States now existing shall think proper to admit," show that all the States did not think proper to admit; and the fact is well known that six only of the thirteen original States did then admit slaves; seven (which were a majority) were opposed to their admission; but all entered into this compact, as the best and only remedy in their power; suspending the operation of the power of Congress upon the original States until 1808, when it was believed, restrictions even upon the original States might safely commence, but, without any limitation or suspension of power over the subject, as to new States. But, it has been said, that "migration" applies only to white emigrants. Sir, if there can be a doubt that slaves are the persons intended, the 5th article of the constitution will remove it; for that article is wholly in favor of slaveholding States, and provides, that "no amendment of the constitution, prior to 1808, shall affect the 1st and 4th clauses in the 9th section of the 1st article, which wholly apply to slaves. The 6th article of the ordinance of 1787, excluding slavery from new States, but permitting reclamation of fugitives from original States only, must, from its analogy to the 9th section and 1st article of the constitution, have been in view of the Convention when the constitution was formed, and has a strong bearing on this subject. Can it then be doubted that Congress have a superintending and complete power over this subject, except only as to the internal regulations in the original States? And did not Congress commence this work by a law of 1807, which took effect on the 1st day of the year 1808? Sir, they did; and I think we are bound to pursue it.

Mr. Chairman: Look back to times which tried the "principles" of men; to the Congress of 1774, and examine the proceedings of those men to the adoption of the constitution; the professions and the acts of those patriots all speak the same language, and tend to the same object—civil and religious liberty, the rights of man; and then say, if we can so far depart from their principles, as to extend slavery over this free and happy land. Is there no evil in this traffic? Why were Congress so assiduous to enforce the ordinance of 1787, upon our citizens now of Ohio, Indiana, and Illinois? Why was your law of 1807 prepared to meet the first day of the year 1808, when you could first prohibit the importation of slaves into the original States?

WEDNESDAY, February 2.

Journal of the Old Congress.

Mr. STROTHER offered the following joint resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secret Journal of the Old Congress, from the date of the ratification of the definitive Treaty of Peace between the United States and Great Britain, in the year 1783, to the formation of the present Government, now remaining in the office of the Secretary of State, be published under the direction of the President of the United States, and that one thousand copies thereof be printed and deposited in the Library, subject to the disposition of Congress.

The resolution having been twice read, Mr. STROTHER moved that it be ordered to be engrossed and read a third time to-morrow. He saw no objection to its taking this course, which would afford the opponents of the proposition, if it had any, the opportunity fully to urge their objections; and would have the advantage, should it meet the favor of the House,

of being acted on at once, and not lost or endangered by the delay that would attend the usual course of commitment to a Committee of the Whole, &c.

Mr. SMITH, of North Carolina, was opposed to the motion; and hoped, as it was a proposition involving the expenditure of money, that it would take the ordinary course, and be committed. He moved, therefore, that the resolution be committed to a Committee of the whole House.

Mr. PINCKNEY, of South Carolina, was in favor of ordering the resolution now to a third reading. He was a member, he said, of the Old Congress, and knew very well what the secret part of its journal contained, and, should it be ordered to be published, the House would find that the little cost which the printing would incur, would be well laid out.

After some conversation between Mr. STEOTHER, Mr. SMITH, and Mr. LIVERMORE, as to the course proper for the resolution to take, Mr. SMITH withdrew his motion; and the resolution was ordered to be engrossed for a third reading.

The Missouri Bill.

The House then resumed, as in Committee of the Whole, the consideration of the restrictive amendment proposed to this bill.

Mr. RANDOLPH rose and addressed the committee nearly three hours against the amendment; but had not concluded his remarks, when he gave way for a motion for the committee to rise; and the House adjourned.

THURSDAY, February 3.

American Colonization Society.

Mr. RANDOLPH presented a representation of the President and Board of Managers of the American Colonization Society, stating, that they are about to commence the execution of the object to which their views have been long directed, and without a larger and more sudden increase of their funds than can be expected from the voluntary contributions of individuals, their progress must be slow and uncertain; they therefore pray that the Executive Department may be authorized to extend to the Society such pecuniary and other aid, as it may be thought to require and deserve; and that the subscribers to the said Society may be incorporated by act of Congress, to enable them to act with more efficiency in carrying on the great and important objects for which they have associated; which was read, and referred to the committee on so much of the President's Message as relates to the African slave trade.

Journal of the Old Congress.

The engrossed resolution for authorizing the publication of the Secret Journal of the Congress under the Confederation, from the Treaty of Peace of 1783, to the formation of the present constitution, was read a third time; and the question being stated on its passage—

Mr. SMITH, of Maryland, expressed his desire to hear from the gentleman who introduced it, some explanation of the object of this proposition, and of the particular reasons which at this time called for its adoption.

Mr. STEOTHER, of Virginia, rose in support of the resolution. By a resolution of the last Congress, he said, directions had been given for the publication of the Secret Journal and the Foreign Correspondence of the Old Congress up to the Treaty of 1783; and why it had stopped there, he was at a loss to conceive. The theory of our Government, he said, was, that it stood on the virtue and intelligence of the people; and its practice should be, that public men should be judged of by their acts. He was of opinion, with a colleague who yesterday expressed that sentiment, that the tree should be judged of by its fruit; and he wished now for an opportunity to see the fruit, that he might judge of the tree. What objection, he asked, could be made to this proposition? Most of the men who had, at the period to which this proposition referred, taken part in the deliberations of Congress, had descended to the tomb, and their memories were justly venerated. Some, he said, yet lived, mingling in public life, and eagerly courting its distinctions. If their course had been generous and frank, they could have no objection to a disclosure of the transactions of that day. Who, he asked, were interested in concealing the transactions of that day from the American people? Not, he was sure, the descendants of those who were now slumbering in the tomb; it must be, if any, the survivors, who were yet struggling for political influence or advancement—who wished to get yet higher than they were on the political ladder. If, said Mr. S., I had had the fortune to have had an ancestor who contributed largely to the acknowledgment of our independence, and to the measures which succeeded in confirming it, should I oppose the proposition now before the House, I should think, by so doing, I assailed the reputation of my parent. Could it be, he asked, that any gentleman objected to this resolve from feelings of friendship to any who were engaged in the occurrences of that day? Was there any one who was desirous to shut out light for the purpose of sustaining a reputation surreptitiously obtained? He trusted not. The constitution itself, he said, required that the Journals of Congress should be published, unless where important circumstances should require a different course. Ought we, he asked, to have State secrets? Were there any movements, either under the old Confederacy or the present form of Government, which were not fit to be seen by the American people? Was that period of degeneracy already arrived that the acts of the Government were so corrupt as not to be fit to be seen? He could see no possible objection to the publication of the Journal

in question. He knew, he said, that this was a delicate topic with some, who shrunk from the inquiry—why, he could not divine. This very sensitiveness, he said, was with him an argument in favor of the resolution. Would any honest public agent, he asked, desire a veil to be drawn over his acts, to hide his conduct from the public eye? He conceived not. At that time, he said, we had a negotiation on foot with Spain, which had terminated lately in the celebrated Florida Treaty.

Mr. HILL, of Massachusetts, said, that it had been stated yesterday, by a gentleman from South Carolina, (Mr. PINCKNEY,) who had himself been one of the old Congress, that, in his opinion, the Secret Journal ought to be published, as containing matters interesting to the people to know. This was with him a sufficient reason to vote for its publication; and, when it was further recollected that the publication was to be made under the direction of the President of the United States, he thought every objection to it must vanish.

Mr. PINCKNEY, of South Carolina, hoped the motion would not be postponed. Until yesterday, he thought the resolve of Congress provided for printing the Secret Journal of the Proceedings of Congress, subsequent to the Treaty of 1783, as well as anterior to it. Why, he asked, had not the whole been ordered to be published? Did it not look as if there was something in it which was not fit to meet the eye? There were some of those proceedings which ought to be published for general information. He would state one of them, he said, which perhaps was not known to the nation, and was a most important part of the history of our country. It was not noticed by Judge Marshall or Dr. Ramsay, in their histories of our country; and was not noticed, probably, because they knew nothing of it, not having access to the Secret Journal which contained it. In the year 1785, Mr. P. proceeded to state, the Spanish Government sent a Minister to this country, with full powers to treat for a surrender of the right to navigate the Mississippi for twenty-five or thirty years exclusively to Spain. If that treaty had taken place, the consequence would have been, that the whole of the country on the Mississippi would have been either separate and independent of this Government, or in the hands of France. This proposition from the Spanish Government, when made, was referred to Mr. Jay to report upon it; and to the astonishment of the country, Mr. P. said, that gentleman had not only reported in favor of accepting it, but supported that opinion with much earnestness and with the best exertion of his talents. The question was then submitted to the votes of the States. All the Eastern and Northern States, said Mr. P., joined in support of the treaty; and, had it not have been for the greatest exertions I ever witnessed in a public body, from those opposed to it, that treaty would have been ratified. If it had been, where would now have been the members who fill these seats? Either subjects of a power hostile to us, or members of a Government wholly independent of us, and our rivals. Mr. P. asked the honorable gentleman from Maryland, and others, whether facts like these, ought to be withheld from the public eye? It was information for which he had already said, one would in vain search the most approved of our histories. But, was it not extraordinary that, in ordering the Secret Journal to be published, Congress should have stopped at the Treaty of 1783? The inference must be, unless some better reason were given, that Congress did not wish the world to be acquainted with the whole of it. He was, therefore, of opinion that it was a matter of course that the remainder should be published. If there was information in the Secret Journal which it was desirable should not be published, the whole should have been withheld. But, he presumed the fact which he had stated was sufficient to show that the portion of the Journal embraced by this resolve ought to be published.

Mr. MERCER, of Virginia, explained the views which had governed the committee of the last Congress in the course which they had pursued in regard to this subject. The reason why they had limited their report to the printing of the Secret Journal and Foreign Correspondence to the Treaty of 1783, was, that it had been thought unadvisable to disclose to the world the correspondence and Secret Journal, from the Treaty of Peace up to the formation of the constitution, since there were yet many actors on the scene here, and some perhaps in Europe, who might be injuriously affected by it. That, Mr. M. said, was the reasoning of the committee—it was not his. He knew, he said, that a great lexicographer had defined an ambassador to be one hired to tell lies for the good of his country; but he believed that all State secrets were unnecessary, and that the most candid would ever be the most successful negotiator. The only secret which our Government had purchased was from a swindler, and was calculated at the time to expose the Administration and the country to the contempt of the world.

Mr. BALDWIN, of Pennsylvania, said, that the facts stated by the gentleman from South Carolina, had been disclosed in the debate in the Virginia Convention, at the time of the adoption of the constitution, as long as thirty years ago. After that disclosure, the part of the Journal in question not being published, was a strong indication that it could not now be necessary or desirable to publish it. There might be things in it not proper to be published; and it was worth consideration, whether the veil should not be continued where our predecessors had thought proper to spread it. If, when an excitement prevailed on the subject, it was thought proper not to reveal the proceedings in relation to it, there were reasons now also why they should not be introduced to the pub-

lic eye. We have enough now, said Mr. B., to agitate and distract us, without adding to the excitement. He did not know that he should have objected to this publication, however, were it not that, with a knowledge of all the facts, under all changes of the Government, the publication not having been made, the duty of deliberately weighing the proposition was imposed on the House. It ought not to be hastily acted on. Why this hasty determination to go back forty years into the recesses of our history, and examine transactions which the interest of our country perhaps requires to remain where they are?

Mr. ANDERSON, of Kentucky, was in favor of the resolve lying on the table, because he desired to see an amendment introduced to it. From the naked publication of the Journal, we might infer that motives actuated the public men of that day different from their real motives. He, therefore, considered it important that the public papers, reports, &c., connected with the Journal, should be published; and moved to refer the resolve to a select committee, with instructions to extend its scope so as to embrace all the information on the subject, that no partial publication should be made of the transactions of that day. Such a publication of votes, &c., without the motives of their being understood, might do an injury to those who were concerned in them.

Mr. STORRS, of New York, was opposed to a reference of this resolve, preferring to see it met directly and rejected. When this proposition was first introduced, he said, he had been inclined to support it. But, upon reflection, he was convinced that the interests of the country not only required that the Journal should not be published, but imperiously required it. There was a reason for publishing the Secret Journal and Correspondence of the Revolutionary Congress, which did not apply to that embraced by this motion; and good reasons had been assigned for the discrimination. But, in his opinion, there was a better reason; our domestic quarrels, said he, formed but a small portion of our legislation previously to the Treaty of 1783. There was nothing, then, in the Journal which it was desirable to withhold; and nothing in the secret papers which could affect the feelings or characters of any but open and known traitors. It was proposed now, however, to lift the veil from those scenes of domestic quarrelling, in which the feelings of different portions of the country had been interested to a degree which seldom, until this moment, had been witnessed in the councils of the country, to give to the world all the history of our family bickerings; to show that, before the adoption of the constitution, the North was opposed to the South, the South detracting from the North, &c. For what use? He could not see any occasion for it. One word, he said, as to a venerable name which had been introduced in this debate. He knew the gentleman from South Carolina too well to suppose him intentionally to have misstated any thing. But, it was due to Mr. Jay, and to his character, to say, that the gentleman had not told the whole history of the affair referred to by him. It might be supposed that it was proposed to give up to Spain the navigation of the Mississippi without an equivalent. Not so, however. There was to be an equivalent, and he should like to hear what it was. He was not to be told that Mr. Jay, than whom there was not a more worthy man or more strenuous patriot in any country, proposed to surrender, without an equivalent, the navigation of the river Mississippi.

[Mr. PINCKNEY rose to explain. He had stated that Spain had sent a Minister to this country with the express purpose to persuade us to cede to her, for twenty-five or thirty years, the exclusive navigation of the Mississippi, and that she had offered a treaty embracing such a cession. That treaty, he now stated, proposed benefits to the Northern States, in which the Southern States had no participation. They were to pay the price; they were to yield the navigation of the Mississippi—but they were not to be benefited by the equivalent, as it had been called, which proposed to open to our flag certain ports, such as Manilla, &c., but did not propose to open the ports of South America. It was by no means such a price as Spain ought to have paid for the important cession she sought from us. With respect to Mr. Jay, he said no more of him than that, in the ordinary routine of business, the treaty had been referred to him, and that he, in a long report, which was considered a very able performance, recommended the adoption of the treaty. He did not by any means detract from the character of Mr. Jay.]

Mr. STORRS said he did not suppose that the gentleman did intend to detract from the character of Mr. Jay; because he knew him to be incapable of it. But, when first up, the gentleman had not stated the matter as clearly as he had now done. Mr. S. said he was certain Mr. Jay never would have agreed to surrender the right of navigating the Mississippi, without what he had at least deemed an equivalent benefit to the country yielded by Spain. What was really the fact, as it now appeared? That a foreign nation offered to us a treaty, under the old Confederation, which one part of the nation thought it their interest to accept, and the other did not. Was there any thing important in this transaction? Only in one point of view, and that rather an unhappy one; as showing, that there did exist in the Old Congress a contrariety of views, which we should rather be ashamed to develop than anxious to publish. I mentioned the name of Mr. Jay, said Mr. S., because it had been brought into the debate; and I now take the opportunity to say, that this nation will be unfit for freedom whenever the name of John Jay shall cease to be venerated from one end of the continent to the other. As to the effect of this resolve, if agreed to, Mr.

S. said it would serve to teach to the powers of Europe our weakness. They will find from it the grounds on which this Confederacy is most accessible to attack—the different interests to which they may appeal, if it be an object with them to attempt the severance of the Union. The same interests, said he, exist at this day as did then. I need only refer to the subject (the Missouri question) which is now agitated in this House, to show that it would be extremely unwise to develop, to those who may be hereafter our enemies, the avenues by which we may be assailed. To pass this resolve might answer another purpose, also to be deprecated. It would show to the present generation, after their fathers had descended to their graves, those things which ought never to be touched. We know that the Old Congress was composed of members, representing rather legislatures than the people of the States, and in many cases legislated with a view to their particular political interests; they were not, as the Congress of the present Government, a representation of the people. The publication of this Journal would only add fuel to the flame of dissensions, already sufficiently great. Are we not, he asked, warm enough already? Have there not been debates which show that our zeal wants no additional excitement here? Is it not wise—is it not prudent, till we are once more seated in domestic peace, that we should suffer that Journal to slumber where it now reposes; that it should remain until the men who were actors in public life at that day, and, if possible, until with them all the prejudices and resentments arising out of sectional interests, shall have passed away? Under the influence of that impression, Mr. S. said he hoped the resolution would be rejected.

Mr. RANDOLPH, of Virginia, said, in rising, that the observations of the gentleman from New York were not the only observations that he had ever heard on the floor of this House or out of it, against a proposition, which went (in his judgment) powerfully to support it. He agreed, with the honorable gentleman who had just sat down, that, to use the coarse expression of a man whose name, if fame, if notoriety, was an object, would last as long as the world whose destinies he had so important an agency in governing—we should wash our dirty linen at home. But the proposition now was, to commit this resolution—to inquire, in fact, whether or not it was expedient to adopt it; and was the honorable gentleman afraid to trust a committee of this House? Mr. R. said he had nothing to say irreverent of the name of John Jay, or of any other of the *patres conscripti* of our better times. But nothing could be more fallacious than the notion of keeping the Cabinets of Europe out of our secrets by refusing to publish them by our authority. The Minister of Spain had long ago informed his Government of every thing relating to this matter; and in the archives of the Escurial or of Saint Ildefonso might be already found every thing it was in the power of Congres to disclose to them. When this publication should have been made, Mr. R. said he should himself learn from it nothing new: but was it not important, he asked, that the people should be informed on those matters which the gentleman from New York was so desirous, and so unavailingly desirous, of keeping from the crowned heads of Europe—or, rather, from their Ministers? He was on the point, he said, of expressing this wish: that at Paris, or some other spot, there should be a repository in which all the records of diplomacy might be preserved, that history might rest on her own basis. He trusted that all the transactions of our Government would be developed, when they could be no longer injurious to the feelings, the characters, or reputations of those who were living. With regard to the knowledge of foreign nations respecting us, Mr. R. said they knew the only mode in which this Republic, or any other, is assailable. *Divide et impera*—that, said he, is the tyrant's maxim; that is the way in which they will approach us—and, I am sorry to say, that materials for their operations are daily furnishing, ready to their hand.

Mr. COOK, of Illinois, spoke against the principle of the resolve. If he wished to walk among the tombs of his ancestors; to visit the graves of the venerable patriots who framed the constitution of the country, and discharged the important duties of government during the Confederation, and inscribe on their tombs censure or approbation, he would vote for this resolution, because it would produce the information necessary to enable him to do so. But the information communicated by the gentleman from South Carolina had satisfied him that the resolve ought not to be adopted. The country, he said, was now nearly rent in twain, by an agitation almost as serious as that of the Western insurrrection, or of the discovery of the Spanish conspiracy. The statement which had been made by the gentleman from South Carolina, was calculated to increase that excitement. The peace and tranquillity of the country required, Mr. C. said, that the wounds which time had cicatrized, should not be opened again; that the veil which had been dropt over the incidents of that day should not now be lifted. With respect to that statement, the gentleman from South Carolina must excuse him for saying, that, from the lapse of time, Mr. C. apprehended he had forgotten the objection which he owed, as a member of the Old Congress, not to divulge its proceedings. The character of that gentleman forbade the imputation to him of any incorrect motive; but, if the proceedings were secret at the time, and so ordered to remain, they should not now have been disclosed, unless some important emergency required it. The hint already given was sufficient to arouse feelings which should lie dormant. Washington, the sage and patriot, had recommended that the veil which covered the conflicts of that day, should not be lifted; and his warning

voice against the encouragement of local prejudices and sectional distinctions, operated, Mr. C. said, on his mind forcibly on this occasion. On further consideration of this subject, Mr. C. said, he thought gentlemen would agree with him there were strong reasons against acting on it as proposed. The gentleman from Virginia had urged the adoption of this resolution as the representative of the hardy yeomanry—in the name of the people of whom he is the servant. It is for the interest, the peace, the tranquillity of those people, said Mr. C., that I wish to see this resolution laid in eternal sleep; that it shall lie with the ashes of the departed which it is attempted to disturb. Many of the actors of that day have gone off the stage of life. Some of them may, in their political course, have committed what we now consider errors. But, is nothing due to him who, on reflection, abandons an erroneous course, and pursues the proper interest of his country? Is he not to be sheltered from reproach for errors committed in the outset of his life? Mr. C. thought it important that those things which the venerable fathers of the land had kept secret should not now be brought up, by writ of error, to be reversed before the tribunal of the people. He was willing to submit this question to the elders of the country; they had decided on it—their decision had been long acquiesced in, and he hoped the House would not undertake to reverse their decision.

Mr. PINCKNEY said that he had just been informed that, under the resolution of the last Congress, the President and Secretary of State had considered themselves authorized to publish the whole of the secret journal, as well after as before the Treaty of 1783. If so, there was of course no occasion to act further on this subject.*

Mr. WARFIELD, of Maryland, said he could not readily express the astonishment he felt at the opposition given to the resolution then before the House; for he did not suppose there would have been the least hesitation in adopting it. He believed the public proceedings of our Government, and the greater part, if not the whole of the confidential communications, had been published up to the year 1783. From that period to the ratification of the present Government, if we have not been left altogether in the dark, we have certainly a very imperfect and indistinct knowledge of the important measures which were then acted on by those in power. Why the proceedings of our public characters, for the period alluded to, should be concealed from the view of the citizens of this country, he was altogether at a loss to understand. He was informed, from very good authority, and by some who were members of Congress at that time, that subjects were discussed, and questions brought before them, of great and national importance; many of which had been communicated to, and were distinctly understood by Governments in Europe, whilst the knowledge of them in this country was chiefly confined to those who were at that time actors on our great political theatre. They had been denominated the secret proceedings of Congress, and under that appellation had been concealed from public scrutiny. This doctrine of *secret proceedings*, and thereby concealing from the public eye measures important in their consequences, and which ought to be known to the citizens of this country, is a doctrine against which he would take leave to enter his solemn protest. It was a doctrine which might be advocated and maintained under some Governments; but it was one which he considered altogether incompatible with the spirit and genius of Republicanism. In a Republic the people ought to know, they had a right to know, the political course pursued by those whom they had clothed with power. He had no fear, Mr. W. said, of trusting the people of this country with a full knowledge of their political concerns; he had great confidence in their wisdom, their prudence, and their patriotism. If, upon the publication of these secret proceedings, it should be found that the estimate which had been made of the public worth of men, had been a mistaken one, it might, perhaps, be a cause of regret, but, so far from being an argument against their publication, he conceived it to be one of the most cogent reasons that could be assigned in support of the measure. Men ought to stand or fall, in public estimation, according to their intrinsic merit or demerit. The acts of men on great and important political questions, is the standard by which they ought to be judged.

The question was then taken on referring the resolve to a select committee, and was decided in the affirmative.

The Missouri Bill.

The House spent some time in Committee of the Whole, on the Missouri bill. Mr. RANDOLPH spoke for some time, in continuation of the argument he commenced yesterday. When he concluded, the committee rose, on motion of Mr. HARDIN, who is, according to usage, now entitled to the floor; and the House adjourned.

TUESDAY, February 4.

On motion of Mr. SLOCUMB, the President of the United States was requested to communicate to this House if any, and what, progress has been made in surveying certain parts of the coast of North Carolina, and in ascertaining the

* This is fact Under the resolution of Congress, of the 27th March, 1818, which provides for the publication of the secret journals of the acts and proceedings and the foreign correspondence of the Congress of the United States, the construction has been such as to include the period *subsequent* to the treaty of 1783. Had this been known to the mover of the resolve now debated, of course it would not have been introduced. The allusions in the debate were, however, of such a nature, that, having a sketch of it in possession, we did not feel ourselves justified in withholding it from the public eye.—*Editors National Intelligencer.*

latitude and longitude of the extreme points of Cape Hatteras, Cape Lookout, and Cape Fear, pursuant to a resolution, approved 19th January, 1816.

On motion of Mr. STEVENS, the Committee of Commerce were directed to report whether, in their opinion, it would be expedient to erect a light-house on the south coast of Lake Erie, at or near the confluence of its waters with those of Sandusky Bay.

Accountability for Public Moneys.

Mr. RANDOLPH rose to offer a motion, having for its object an inquiry respecting the enforcing a stricter accountability for the public moneys, &c. The United States reminded him, he said, of those generous and gallant young fellows, ready to do justice, at all times, to everybody but themselves. The moneys of the United States were scattered over the country from Passamaquoddy to Yellow Stone—from Chicago to Mobile, in a manner which would fritter away the resources of any other nation in the world than this. Nothing, said he, but the rapid growth of the infant Hercules has enabled us to support this dilapidation of the public estate. We are something like the Georgia and Virginia Planters—cotton being at fifty cents, and tobacco at thirty dollars. Do you want a tooth-pick? Take a hundred dollars. Do you want a tooth-brush? Take a hundred dollars. Do you want tooth-powder? Take a hundred dollars. And, sir, we want pens, paper, and ink; and these different wants supply business for several individuals, to whom money is advanced, to be accounted for hereafter. *Is* it accounted for? What is the deficit now? It exceeds greatly the average annual revenue during the administration of Washington. Let us see, said he, the aggregate receipts on which the father of his country, as he has been over and over called, administered the Government of the United States. From the 4th of March, 1789, to the 31st of December, 1791, making almost half of his first term of service, the receipts into the Treasury amounted to $4,400,000. For the year ensuing they were only $3,600,000; for the year following, $4,600,000. These were the receipts of the four years composing the first Presidency. In the first year of the next term, the revenue was $5,100,000; for the next, $5,900,000; and for the last, $7,000,000. These facts, Mr. R. said, were conclusive. They spoke to the understanding of every man who kept his eye on the receipts and expenditures of the Government. I recollect, said he, when we thought, if we could get a receipt of ten millions of dollars—of which seven millions went to the Sinking Fund, and shortly after, on the purchase of Louisiana, eight millions—we should be in the full tide of successful experiment. Was there no way, Mr. R. asked, to recover the public assets from the hands of those who were living on the public funds? This system would not answer—a system more simple might answer in the case of the United States, as he knew it would in that of this House. For what, said he, is *our* situation? We meet in a room in which we can neither hear nor see—but even the blind can see what I wish to bring to the attention of the House—it is the universal dilapidation of the public funds. As for accommodation and adaptation to public business, I should as soon think of attempting to be heard across the Potomac, in the face of a northwester, as to be heard here, where the physical triumphs over the intellectual power. Have gentlemen adverted, Mr. R. asked, to how much of the money of the public was in the hands of the Columbia banks, or how it got there? And do *we*, said he, know any thing of the Central Bank, the Patriotic Bank, and of the other banks, so numerous that it would be in vain to attempt to repeat their titles? For my part, continued Mr. R., I am not at all sorry for the effect which the public at this time experience, although perhaps I pay as dearly for it as most of us—I lament the cause—but, sir, we are punished, if I may use the term, in the offending member. I trust it may bring us to a sense, not only of what is best for our ownselves, but of what is due to our constituents; that the system of peculation shall be broken up; that the Augean stable shall be cleansed; that the stream of public treasure, compared to which the Missouri itself is but a rill, shall not be dammed up by peculators and defaulters, &c. Mr. R. said he would therefore move—

"That the Secretary of the Treasury be directed to report to this House such measures as, in his opinion, may be expedient to enforce the more speedy payment of public moneys, due from individuals and corporate bodies in the United States."

Mr. LOWNDES said he had no objection whatever to the object of this motion. He would only remark, that a part of it appeared to him to be comprehended in calls already made on the Treasury Department, and a part of it within the prescribed duties of a committee of this House. With regard to the unaccounted-for moneys of the United States, Mr. L. conceived both the facts and apprehensions of the gentleman from Virginia to be exaggerated. In order to take a correct view of the subject, he suggested the propriety of so modifying the resolution as to call for an accurate statement of the amount of public moneys outstanding and unaccounted for, &c.

Mr. RANDOLPH said he would readily agree to modify his motion in the manner which the gentleman from South Carolina, or any other gentleman, should deem it expedient, to effectuate the object of it. If the gentleman would prepare such an amendment he would adopt it with pleasure. The resolution, he said, must speak for itself. While up, he would observe that, with regard to the banks of this District, while he had mentioned one or two by name, he did not know that there was a pin to choose between them. He had no idea, he said, of selling off the public lands, increasing the bal-

ances already due for them, and making up the present deficit by taxes on the people, when it could be made up merely by making these leeches disgorge. The honorable gentleman has mistaken me, said Mr. R., if he supposes I have any hostility to the Secretary of the Treasury. I have none. But, Mr. Speaker, you know very well—no man ought to know better—what it is to disturb a hornet's nest. The Secretary of the Treasury is not going to array himself against these individuals without a call from this House. The present system, Mr. R. said, would not work; and, if it would not, we must either go on with it as it is, and continue to increase the public burdens, or we must endeavor to get rid of it. He wished that the present Secretary of the Treasury, or the former Secretary of the Treasury—of whose intended return to this country rumors were afloat—or some one of equal capacity with either, would devote himself to rectifying the disorders in the public expenditures. The disorder in the receipts was bad enough—no other Government, perhaps, could go on with it—but when to this was added the disorders in the expenditures, Crœsus himself could not sustain it. The English, Mr. R. said, were remarkable for having brought their system of collection to the least possible expense—he would not say to perfection, but certainly much nearer it than we have attained. France, though her revenue be not so cheaply collected as that of England, yet, as far as his information extended, in the economy of its expenditures greatly surpassed her. The English are profuse in their expenditure—he spoke not of the gross amount, nor of the object, whether great armies, the navy, &c., but of the dollar for dollar's worth. But, he said, we are more profuse in the expense of the collection of revenue than either of these powers, and we outdo the outdoings of every former generation in the profusion of expenditure and total want of responsibility in public agents. Now, said he, *meo periculo*, I undertake to say, if you will call in the balances due to the Government from individuals; if you will make the great corporations and men who pass for rich, with public moneys in their hands; if you will make these leeches disgorge; if you will make them pay the people, it will cure your deficit; it will make it unnecessary to lay taxes. They do not pay interest on the money they hold; and very likely, if you authorize a loan, they will take it—and who are better able than men who have both their pockets stuffed with public money? Mr. R. said he hoped the Secretary of the Treasury would consider it a part of his duty, in suggesting a remedy, to give the House some little history of the nature of the disease. If, however, it should be thought necessary specially to require it, he had no objection so to modify the resolution.

The question was then taken on Mr. RANDOLPH's motion, and carried without a division.

The Missouri Bill.

The House again resolved itself into a Committee of the Whole, (Mr. BALDWIN in the chair,) on this bill.

Mr. HARDIN, of Kentucky, addressed the committee in the following words: Mr. Chairman, I am under great obligations to the committee for indulging me in my request on yesterday evening, for the committee to rise, and give me the floor this morning. But, were I to consult the safety of the little reputation I have, I ought not, although pledged, to address you and this House to-day upon the present subject. I readily acknowledge that, at this moment, I feel the most thorough conviction of my own incapacity to do any thing like tolerable justice to the question now under consideration, or even to acquit myself with credit.

The importance of the present subject renders it my indispensable duty to myself, to this House, my country, and posterity, however reluctant I may be, to assign those reasons which have occurred to me, and which compel me to vote against the amendment offered by the gentleman from New York. There is one point, and I believe only one, in which there is an entire concurrence of opinion in this House and the Senate; that is, the immense importance and magnitude of the present question now before us—important, not only on account of the extraordinary excitement existing throughout the nation, but also on account of the new constitutional doctrine broached on the opposite side of the House. One portion of the United States bring forward and support this amendment, under the imposing names of humanity, sympathy, and religion; at the same time uttering the bitterest curses against the odious and abominable practice of retaining a part of the human family in bondage. I acknowledge there would be great propriety in reprobating the practice upon this occasion, if we were the authors of it, or could get clear of it; but it has been our misfortune to have it entailed upon us by that Government under which we were colonized; and, however eloquently gentlemen may declaim upon the subject of universal liberty, it proves nothing upon the present question, although it may captivate and enlist all the finer feelings and sensibilities of the heart. But I fear, I greatly fear, Mr. Chairman, that gentlemen are fighting under false colors—that they have not yet hoisted their true flag. As this contest is upon the great theatre of the world, in the presence of all the civilized nations of the earth, and as it is to be viewed by an impartial posterity, would it not be more magnanimous to haul down the colors on which are engraven humanity, morality, and religion, and in lieu thereof unfurl the genuine banner, on which is written a contest for political consequence and mastery?

On our side of the House, Mr. Chairman, we are contending not for victory, but struggling for our political existence. We have already

surrendered to the non-slaveholding States all that region of the American empire between the great rivers Ohio and Mississippi; and if you tear from us that immense country west of the Mississippi, we may at once surrender at discretion, crouch at the feet of our adversaries, and beg mercy of our proud and haughty victors.

Behold, Mr. Chairman, and see how our tables groan with the cumbrous mass of memorials and petitions from town meetings, colonizing societies, and emancipating clubs, together with resolutions from all the non-slaveholding States. This mode of operating upon this House is extremely unfriendly, and hostile to the enactment of good, wise, and salutary laws. It prevents and destroys the beneficial effects of a free interchange of sentiments upon great national subjects. I acknowledge that three of the slaveholding States have sent also to this House requests and instructions; they were only intended by way of counteraction to the ponderous mass on the other side. I duly appreciate the motive that induced their being sent; it was a display of effort in the good cause. But it was entirely unnecessary; it was an act of supererogation, for we had been instructed before. Our instructions come from higher authority; they came from the Convention of 1788. I hold them in my hand; they are known throughout the civilized world by the name of the Constitution of the United States. In pursuing the investigation of this subject, in the order I proposed, it will be necessary, Mr. Chairman, in the first place, that we should have a clear and distinct view of the relative power of the General and State Governments. I take this proposition to be undeniable, that, were it not for the contract between the States, which is the Constitution of the United States, that the States would be completely sovereign to all intents and purposes, and that every power and attribute incidental to, or connected with sovereignty, would belong to the States. The proposition is equally incontrovertible that, as the Government of the United States possessed no sovereignty originally, or even existence itself, and being composed entirely of delegated powers from the States, that it possesses none of the original attributes of sovereignty, and it can do nothing which it is not authorized to do by the constitution, either by an express grant of power, or by an implicit grant as necessary to carry into effect some power already given. If the two propositions above stated be correct, and of the truth of which there can be no doubt, it follows as a consequence, independent of the amendment to the constitution, which reads in these words, "the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," that Congress can do nothing which they are not authorized to do, and that the States can do every thing that is not delegated to Congress, or which they are not forbid to do. The above conclusions refute all the arguments which we have heard about the omnipotence of Congress. Doctrines at all times dangerous, but extremely so now on account of their being so fashionable.

In pursuing this inquiry, Mr. Chairman, we must pause for a moment, until we ascertain what kind of property a man has in his slave. The answer to this question is not difficult, for none will pretend to deny but that his property is absolute and unqualified, as much so as to any property a man can possess, except the right to take from his slave his life; and this right to slave property is unequivocally recognized by the constitution, first, in the clause which gives a representation in this House for three-fifths, and secondly, in that part which reads in these words: "No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up, on claim of the party to whom such service or labor may be due." Mr. Chairman, having progressed thus far in the argument, I may safely say to my opponents, you allege that Congress has the power to impose the restriction? We deny it; and it being admitted upon all hands, and from all sides of the House, that if Congress have the power it must exist in the constitution and nowhere else, I therefore call upon you to lay your finger upon that part of the constitution which will sustain you in the high ground you assume. In answer to this call, which is made not by me alone, but other gentlemen also, we see on the other side of the House nearly as great confusion and uproar as prevailed at the Tower of Babel, when the angel from Heaven was sent down to disperse the people and confound their language. One takes one part of the constitution, another disclaims that and selects another part, and no two seem to agree throughout.

It is time, sir, that this plea of necessity for the extension of power should be disregarded and no longer allowed. I would ask you, Mr. Chairman, and this House, to cast your eyes back upon the nations of the world, both ancient and modern, from the formation of the first Government, under Nimrod, who was a mighty *hunter*, to the present day, and tell me, has not every encroachment upon the civil, political, and religious rights of the people been justified, or apologized for, under this same plea —*necessity?* The Ministers of Great Britain plead necessity for the present system of taxation, which now bows down to the earth with the heaviest load of oppression, the people of that country. Bonaparte plead necessity for his conscriptions; even the Sultan of Turkey, if he takes off the head of one of his subjects, pleads necessity. I do assure you, Mr. Chairman, that civilly, morally, politically, and religiously, a greater tyrant never existed than this same *necessity*.

The amendment is fraught with the greatest

injustice towards the people of Missouri. Those who lived there and had slaves, when that country was transferred to the United States, were told in the most solemn manner, by the very terms of the treaty itself, that they were to be secured in the free enjoyment of their property; and it was then well known to the contracting parties, that a great number of the inhabitants had slaves. To those who have moved there since, what has been the language of this Government to them? It was, that slavery should be tolerated there, because Congress, in the territorial administration of the government of that country, did not prohibit it. Under the persuasion that that description of property was and would continue to be well secured to the rightful proprietors, numbers have been induced to move from all the slaveholding States to that country, and carry their negroes along with them. That quarter of the world being alike free and open to emigrants from all parts of the United States, the demand for land was increased, the price of it enhanced, and this Government had been the gainer thereby. Carry this amendment, and what is the result? A violation of national honor and plighted faith to those who are there, and who have not the means of resistance. They are completely at our mercy; and although justice is on their side, they have no way to obtain it, unless we grant it to them. But I am afraid that their appeal for their political rights is addressed to a tribunal with which justice, humanity, and religion is but a name, a shadow, a phantom. We are told that the slave property which is now there shall be secure to the owners. I have shown that the increase is to be taken from them. If the amendment be adopted, and the same, from necessity, acceded to by the people of Missouri, what will follow as the consequence? This—that emigration from all the slaveholding States being substantially prohibited, the population will flow into that country exclusively from the North, and in the course of a few years, by State regulations, their slaves will be taken from them. The gentlemen who advocate this amendment well know the consequence that will follow from the restriction as now proposed. Their declaration that the slave property now there is not eventually to be affected, is insidious; it cannot deceive us, the nation, or gull the people of Missouri. If this were not the expected and looked for consequence, that master-stroke of Northern politics, to make it a non-slaveholding State, would be an abortion, and fall short of its mark. The people of Missouri have sagacity enough, if this amendment shall be adopted, to know upon what they have to depend; that is, either resistance to the measure, or an abandonment of their country and homes, because they never will consent to give up and lose their slave property. If they choose the latter alternative, and seek out other countries to remove to, and other lands for habitations, their possessions which they have purchased in its virgin state at a high price, and with great labor rescued part of it from the forest and wilderness, will have to be thrown into the market. That, together with the land of the Government, which will be for sale, will greatly reduce the price, on account of the disproportion between the article in market and the demand. Those of the inhabitants of Missouri who will be expelled their country by this restriction, will be compelled to sell their lands at whatever price that may be offered; the purchasers will be from the North; and the people of that country, although famed for their outward show of religion, humanity, and sober habits, have never been remarkable for their liberality, but on the contrary, notorious for their capacity at driving a good bargain. They are, in truth, exceedingly sharp-sighted in money matters as well as politics. There are other considerations which ought to prevent the passage of the present proposed restriction. Injustice, as it relates to the slaveholding States. They form, in point of numbers, one-half of this Union. They paid their proportion towards the purchase of this territory. I would ask of this House, Mr. Chairman, and particularly those who advocate the opposite side of the question, if towards those States it be fair, honorable, and just, by the dead weight of numbers here, to interdict and prohibit their inhabitants from an equal participation in the enjoyment of the country west of the Mississippi, the largest and fairest portion of the American world? Where, I would ask, can the people of those States which tolerate slavery move to, if you forbid them, by a system of measures, from going there? The whole of the territories, except the Missouri, which belong to the United States, have already been surrendered to the non-slaveholding States; for it must not be forgotten, that where slavery is prohibited, there the slave owners cannot go, because they cannot give up their slave property. Nay, more, in a variety of cases, even affection forbids a separation. It has been said, that we can move, if we are desirous to emigrate, to the Mississippi and the Alabama; but, I would ask, how can a Marylander, a Virginian, and a Kentuckian, move there? He and his family have been accustomed to a colder climate. It is uncongenial to their constitutions. The danger of sickness will to them be alarming, and they never will attempt a removal to those States, a few rare instances excepted. If you take from us the whole of the Missouri Territory, we strike at once and give up the ship.

I call upon the gentlemen from both sides of this House to tell me what is to be the consequence if this section be not settled in some way this session? I may be asked, how is that to be done? I answer, by a compromise, and in no other way. Can either party be so vain as to expect a victory? Behold! and see how this nation is divided: eleven States against eleven; a small majority in this House in favor of the amendment; a small one in the Senate

against it; and the Cabinet, perhaps, not unanimous. In this state of public sentiment the bill falls, and Missouri is not permitted to become a member of the Union. Her claims are just and well founded, but we have refused to recognize them, and turned a deaf ear to her petitions, from time to time; not only that, but manifested a strong disposition not even to allow her citizens the rights of self-government—the birth-right of all Americans.

The flame of seventy-six may burst out. They call a convention, form a constitution agreeably to their own ideas of the best practicable mode of obtaining happiness; they disclaim their territorial vassalage and set up for themselves. Are we to drive them to submission at the point of the bayonet, because being citizens of the United States, they claim the high destinies of freeborn men? If the bayonet is the policy, who is to wield it? Not the Southern, Western, or Middle States, for the hearts of their people are with them; and, ten chances to one, if arms, the last argument of nations, are resorted to, they will assist and aid them. This dispute is like no other that ever came into this House, that was ever laid before the Legislative body of this nation. Party spirit, I know, has at times run high, but the great danger from this question, as it relates to the safety and integrity of the Union, is this, that it is not the same State divided into parties; it is not the States in the same section of the Union divided against each other. It is the North and East against the South and West. It is a great geographical line that separates the contending parties. And those parties, when so equally divided, shake mighty empires to their centre, and break up the foundations of the great deep, that sooner or later, if not settled, will rend in twain this temple of liberty, from the top to the bottom. My friends reply to me, and say, how can you compromise—how can you surrender principle?

It strikes me, Mr. Chairman, that this matter can be settled with great facility, if each party be so disposed, and neither give up any point in this question which may be called principle. Can it not be done by permitting Missouri to go into the Union without the restriction, and then draw a line from the western boundary of the proposed State of Missouri, due West to the Pacific? North of the line prohibit slavery, and South admit it?

SATURDAY, February 5.

Mr. MEIGS submitted the following preamble and resolution:

Whereas, slavery in the United States is an evil of great and increasing magnitude; one which merits the greatest efforts of this nation to remedy: Therefore,

Resolved, That a committee be appointed to inquire into the expediency of devoting the public lands as a fund for the purpose of,

1st. Employing a naval force competent to the annihilation of the slave trade.

2dly. The emancipation of slaves in the United States; and,

3dly. Colonizing them in such a way as shall be conducive to their comfort and happiness, in Africa, their mother country.

The said preamble and resolution were read; and, on motion of Mr. WALKER, of North Carolina, laid on the table.

The Missouri Bill.

The House then again resolved itself into a Committee of the Whole (Mr. BALDWIN in the chair) on this bill.

Mr. HEMPHILL, of Pennsylvania, addressed the Chair as follows: I have a wish, Mr. Chairman, to express my sentiments on the subject before the honorable committee. I approach it with great diffidence, as I have not been in the habit of public speaking for many years. I confess that the magnitude of the question impresses me with fear that I may become embarrassed in the discussion.

I have taken all the pains in my power, consistently with the state of my health, to gain information, and have listened with attention to the speeches in this House, and to many of those in the Senate, and I may unintentionally confound what I have heard in the two places, for I have taken no notes of any thing that has fallen from any gentleman.

Mr. Chairman, the present amendment does not interfere with the slaves now held by the inhabitants of Missouri; but, by its operation, their offspring will be free. The cause in which we are embarked is just, as its object is to afford to the descendants of an unhappy race those enjoyments that heaven intended to give them. But we are met on the threshold of the discussion, and told that Congress has no right to legislate on the subject; it is said that the power is too large; it has been compared to an ocean, and that Congress ought not to be entrusted with it, the danger of its being abused is so great. It is contended that, if Congress possess this power, they might descend to the minutest acts of legislation, and introduce new States into the Union as mere dwarfs, stripped of all the grandeur of sovereignty.

I acknowledge that it is difficult to answer these general observations, this reasoning against the existence of power from the possibility of its abuse. There is but one way that I know of to give any thing like an answer, and that is, by saying, in the same general terms, that this power is a near relation to all other powers, and that powers of every description are liable to be abused.

Congress possesses a string of powers, all of which might be abused. Among others it possesses the power to levy and collect taxes, to borrow money on the credit of the United States, and to declare war. The powers to collect taxes and to declare war give to Congress a command over the purse and the sword of the

nation. These powers, if wickedly exercised, might not only jeopardize, but might put an end to the existence of the Government. To make a comparison of the privilege of merely changing the relations of a Territory into a State, upon certain stipulations, with the powers just mentioned, would be, truly, like comparing a star to the sun.

The President and the Senate also possess important powers, which, physically speaking, might easily be abused; instead of appointing men of virtue to office, they might fill them with the vilest malefactors of the nation. But is there any danger of all this?

Congress being, then, expressly intrusted with such vast powers, is it not a very feeble argument to urge the possible abuse of power against its existence in a minor case, even if it were a doubtful one?

I have gone far enough for my purpose, as I wish to be brief on each head of my argument.

Is there, then, any cause of alarm in regard to the power in question? How can there be, as nothing can be done without the assent of those who are applying to compose a State? It is not an act of ordinary legislation, but a mere act of compact and agreement—and can it for a moment be supposed that Congress will ever insist on any terms, except such as may affect the republican character of the Government, or some other important interest of the nation; and, on such occasions, why shall the people be deprived of the right to pass their judgment through their immediate representatives?

As to another remark, that an act of Congress will be irrevocable, and without responsibility, the position is incorrect; the inhabitants are under no obligation to accept the terms proposed by Congress; they may appeal to the people, who, if displeased with their representatives, can change them; and even if the terms are accepted, they can be altered by the consent of both parties.

After these observations, I think I am at liberty to confine myself to the particular amendment before the committee.

But, it has been said, that even this condition in restraint of slavery, would manacle a limb of the sovereignty of the proposed State of Missouri, and bring her into the Union as an object of scorn, altogether unworthy of the association of her sister States. This picture is most unnaturally drawn; it ought rather to have represented her as the goddess of liberty, a being incapable, from the composition of her nature, of doing wrong, in this respect, and yet deprived of no political strength; if any of her sister States should disdain to associate with her, the general spirit of the age would condemn such lofty pretensions.

Our ancestors treated this subject in the true light in which liberty and slavery ought always to be considered; but is the spirit that warmed their breasts to pass for nothing? Is the ordinance of 1787 to be reproached as a mere usurpation, and nothing more? Let us at least condescend to inquire into these first principles, and afterwards we can perceive whether they apply to this particular case or not.

I now, Mr. Chairman, beg leave to call the attention of the committee to the peculiar kind of sovereignty that is to be withheld from the proposed State of Missouri. It is pretended that she will be deprived of the right of holding man in bondage. But how can this be deemed a right? It is nothing more than a tyrannical abuse of sovereignty; all the laws on earth cannot make a right of it. When a people are overcome and enslaved for want of ability to resist, they do not lose their rights, the laws of the oppressing country take from them their remedy—they are not held as slaves, because they have no rights, but they are held by force, and because there is no remedy in their power.

I may be told that it is an attribute of sovereignty to judge for itself as to what is right and what is wrong. This is true in the abstract; still sovereignty has its limits. In Vattel, I read "that all nations have a right to repel by force what openly violates the laws of society which nature has established among them, or that directly attacks the welfare and safety of that society."

And, sir, may I not ask what can more directly attack the welfare of society than to hold a race of people in bondage?

If the State of New York, or any other State, should enslave the small tribes of Indians within their limits, would the other parts of the Union acquiesce? Would it not rather be considered as offending against divine and human justice, than as the exercise of any right of sovereignty? It is a right that does not belong to the constituents, and of course cannot be deputed to the Supreme head.

I do not make these remarks as applicable to the present condition of slaveholding States. After what has passed, Congress cannot interfere with their slaves without their own consent; and I am willing to go further, and to say that, independently of the constitution, the slaveholding States have acquired, if I may be allowed the expression, a certain kind of rights which have grown up out of original wrongs; they have the right now of self-preservation, and of domestic tranquillity and peace, as a sudden and general emancipation, or even a material laxity of their laws, might lead to dangerous and bloody consequences, and in these rights they must be protected by the arm of the General Government, if any occasion should require it, until some plan can be fallen upon for the gradual abolition of slavery.

But we find the inhabitants of Missouri under very different circumstances. With them no such danger exists; the children of their slaves, hereafter born, can be made free with as much facility as those that were similarly circumstanced in Pennsylvania. When the inhabitants of Missouri, then, apply to be admitted as a State in the Union, is it not our duty,

and do not the sacred laws of nature call upon us to look back to these first principles? As to the sovereignty, of which she would be deprived, if we allow to the opposite side the largest scope, it would be only that of saying for herself whether or no she would do a wrong of a political cast that would reflect dishonor on the nation; for it must dishonor any nation to spread slavery, unless there is an absolute necessity for it. In such a case, shall we be over nice and scrupulous, and fear to act, unless we find the power in the constitution in so many words—is it not sufficient, if it is found by a fair and reasonable construction?

The questions before the committee, as I divide them, are two: does Congress possess the power of admitting the inhabitants of Missouri to compose a State, and, at the same time, annexing a condition in restraint of slavery?

If the power belongs to Congress, is it good policy, under all the circumstances, to exercise it? With regard to the Territories, the language of the constitution is explicit, and no question can exist. But it is said that, when a new State is to be admitted into the Union, there is a restraint imposed on Congress, and that, in such a case, it can only act by way of negation or affirmation. Had Congress been destined to such narrow limits, some peculiar phraseology would have been used by the Convention, corresponding with such a simple negative or affirmative authority; and the constitution would not have contained the general expression, that the new States may be admitted by the Congress into the Union. Let us for a moment ascend to the fountain of this power—it must have belonged originally to the people of the States, and wherever it existed it was comprehensive and plenary—under the old Confederation, the people or the States could have admitted a new State to participate with them on any terms or conditions they pleased, it would have been a matter of discretion on both sides, a mere compact, and, in the formation of the new constitution, the members of the Convention were authorized to say how much of this full and original power should vest in Congress, and, by the general grant, the whole passed, unless it is restricted in some other part of the same instrument. Is there any division of this original power, unless it is to be found in the way I have mentioned?

The ordinance itself, of 1787, has undergone repeated recognitions. But, it has been reproached as the production of usurped power. This is an assertion without proof; the States had relinquished all right and jurisdiction over this Territory, and there existed no capacity of self-government or organization; under such circumstances, it could not be irregular for Congress to act, particularly as the cessions were made by virtue of the resolve of Congress of the 10th of October, 1780, which contained this clause: that the said lands shall be "granted or settled at such times and under such regulations as shall hereafter be agreed on by the United States in Congress assembled, or any nine or more of them." And, independently of this, the first Congress after the adoption of the constitution, which had express power to make all needful rules and regulations respecting the Territory, recognized the ordinance by passing a supplementary act; and the State of Virginia, also, after the constitution, on the 30th December, 1788, adopted it, by agreeing to the 5th article verbatim, which has reference to all the articles, and contains in itself the important proviso that the constitution and Government so to be formed shall be republican, and in conformity to the principles contained in these articles; in addition to this, it has been recognized by three different Congresses, on the admissions of the States of Ohio, Indiana, and Illinois, into the Union; and by those three bodies of people in the acceptance of their admission into the Union agreeably to its provisions. There are many other instances of its recognition, which make it sufficient to quiet even a doubtful question, for the sake of stability in human affairs, and for the repose and happiness of society.*

There is another part of the constitution that has attracted much attention. I mean that which relates to migration and importation. The committee will perceive that this clause does not directly support the amendment in full, as it would not work an entire extinguish-

* The clause in the constitution which declared the engagements of the Congress of the Confederation to be valid against the new Government, was supposed at the time to be applicable to the ordinance of 1787, and intended to sanction its compacts. Thus, Judge Tucker, Professor of Law in the college of William and Mary, Virginia, and editor of an edition of Blackstone's Commentaries, says: "*Congress, under the former confederation, passed an ordinance, July 13, 1787, for the government of the Territory of the United States, northwest of the Ohio, which contained, among other things, six articles, which were to be* considered as articles of compact between the original States and the people and States of the Territory, and to remain unalterable, unless by common consent. These articles *appear to have been confirmed by the sixth article of the constitution, which declares, that all debts contracted, and engagements entered into before the adoption of the constitution, shall be as valid against the United States under the constitution as under the confederation.*" (Appendix D, p. 279, Phil. edition, 1803.) This would seem to be a fair understanding of the engagement clause in the constitution, and to give to the ordinance the virtue of a constitutional enactment. The Congress of the confederation had certainly entered into engagements with the ceding States, to wit, an engagement to dispose of the soil which they ceded, and an engagement to build up political communities upon it. This is what the old Congress had begun to do under its ordinance, and it is certainly what the constitution requires the new Congress to continue doing; and it is in this sense that the power of Congress to govern the Territories, was usually referred by our first generation of statesmen to their engagements in accepting the territorial cessions, and not to the clause in the constitution which authorized it to dispose of, and make all needful rules and regulations respecting the territory or other property of the States.

ment of slavery in the State of Missouri, it could only prevent future migration to it. But perhaps it may be of some consequence to examine it, as it may have a collateral bearing upon the subject.

It is declared "that the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808."

What is meant by the words "migration or importation?" If the Convention had meant importation into the United States only, why use the word "migration?" "Importation" was the appropriate word for that purpose, and would have included such persons as should be brought from beyond the seas, as well as those brought from the adjoining countries; it would include, with great propriety, persons brought into the country from any other place whatever.

The subject of slavery was one that occasioned the most animated contest between the members of the Convention; and I presume that they did not employ these words without weighing their signification well.

I will give my idea of the word importation first. On the one hand it was agreed that Congress might prohibit the importation of slaves after the year 1808; but as Congress had a right to lay a tax or duty on every thing imported into this country, it was in their power to lay it so high as would virtually amount to a prohibition. To prevent this, the slaveholding States had the precaution to have the tax or duty limited to a sum not higher than ten dollars on each person. This compromise ended the contest as to the word importation.

But what is meant by the word "migration?" That it was intended as a significant word, is manifest from the minutes of the Convention.

It was moved and seconded, to amend the first clause of the report, to read, "The importation of slaves into such of the States as shall permit the same, shall not be prohibited by the Legislature of the Union, until the year 1808."

In the proposed amendment, the word importation stood alone; but the motion passed in the negative, and the word migration was retained. Such a variety of opinions are entertained as to the meaning of this word that it excites curiosity. Some think it is synonymous with importation; some, that it relates to free persons coming into this country; others, that it has a double meaning, relating either to free persons or to slaves; and others, that it is confined to slaves to be brought into this country from the adjacent countries.

I shall say nothing as to the first and third expositions. Can it for a moment be imagined that Congress were to be restrained from prohibiting an influx of strangers into this country, if the safety of the country should require it, until 1808? Such a power is incident to every Government; good policy may require it in times of peace, but it is absolutely necessary as preparatory to a state of war, and in war. It appears by the minutes of the Convention, that the clause at one time stood in these words: "But a tax or duty may be imposed on such migration or importation, at a rate not exceeding the average duty laid on imports;" but, as free persons could not have been valued, of course they could not have been intended as the clause then stood. For my own part I think the clause was always intended to embrace slaves, and no other description of persons.

As to the other exposition, that the word migration means slaves to be brought from the adjacent countries; if so, can any sensible reason be given why a duty or tax was not attached to the word migration, as well as to the importation. In both cases slaves would be brought into this country from foreign nations, and why should the tax or duty be stricken out as it related to migration? The word migration must have meant one of two things—either a change of situation from a foreign nation into this country, or a change in this country from one State to another State; in this respect the clause is left at large; it does not contain the word State or United States. The idea of the two words being synonymous, seems now to be abandoned. Suppose, then, that Congress had laid a duty or tax on slaves to be brought from any of the adjacent countries, would such a law have been declared unconstitutional? If not, the case is included by the word importation; and, of course, the word migration has no employment there. If we consider the meaning to be a change of situation from one State to another, and that is from one government to another, are we not furnished with the reason why no tax or duty was attached to the word migration, as would not have been agreeable to other parts of the constitution: "No tax or duty shall be laid on articles exported from any State; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duty, in another."

I have adopted this construction, because it is most free from objection, and because it accords best with humanity, and with the spirit of the times which produced the constitution.

If this construction is correct, that Congress possesses the power over migration from State to State, and should ever exercise that power, then I may be permitted to ask, how could a State that has abolished slavery ever introduce it into its limits again? Importation from abroad would be cut off; migration from State to State would be inhibited, and the badge of slavery could not be fastened on any white freemen or black freemen; they would be instantly discharged on a *habeas corpus*. Such is the genius of our republican institutions, that no person that is born free can ever be enslaved; and, independently of this, I wish to maintain it as a principle throughout this discussion, that it would be a breach of morality and a true sovereignty, and a dishonor to a State, to introduce slavery, unless there should

exist an absolute necessity for it. Under the view which I have taken, if the restriction is not carried, Missouri will be in a better situation, (if she should so consider it,) than such States as I have mentioned, as the existing slavery in Missouri could not be extinguished, but must be permitted to remain and spread over that whole country.

The existence of slavery in this country must be considered as involuntary; that it is a great political evil is generally acknowledged, and that no blame is attached to the present generation is equally admitted. It was a bitter inheritance, and one that imposed the necessity of its being accepted.

That it is in direct hostility with the principles of our Revolution we all agree; sentiments different in the extreme at that period seized the American mind, and the voice of true liberty was heard throughout the colonies.

The most pathetic appeals were made on the subject, not only to the people of this country, but to the people of England and Ireland, to the Canadians, and to some of the Islands.

The contest for liberty was bloody and expensive, and after it terminated in the achievement of our independence, and when the representatives of the people assembled to make a constitution, among the first difficulties that were presented to them was this unfortunate practice of slavery. It was pregnant with every species of embarrassment; they had fought for liberty, but were obliged to countenance within the borders of their own country a state of bondage; for themselves they could not bear political restraint, yet their situation had been a paradise compared to the condition of this miserable race. A large portion of the people at that critical moment were constrained to yield to certain principles contained in the constitution, as a federal alliance was considered as the only political event that could effectually contribute to the tranquillity and future greatness of the United States, as a nation; a compromise was happily effected, and to it we are indebted for the many blessings which we have enjoyed; but, to these compromises the inhabitants of Missouri must be considered as perfect strangers.

Could the present question in any shape have been proposed to the Convention, I appeal to the candor of the committee, if, in their opinion, it would have been sustained for a moment by the patriots of that early day? Slavery in the old States could not be extinguished, but as to States that were to grow up out of the constitution, it never was intended that they should be inconsistent with the solemn professions made to the world. The sentiments of the nation on this subject were fairly evinced by the disposition of the territory northwest of the Ohio; and shall it now be made a serious question whether we will deliberately extend the practice of slavery to this boundless region, and deny the blessings of liberty to millions unborn, when we are left at liberty to act according to our own wishes, and when there is no plea of necessity for an excuse? I ardently hope that a different result will be the effect of our deliberations.

As slavery exists, it is asked where is the difference whether they live in one part of the country or another? If no slavery existed in this country, a similar question might be put: it might be asked, as slavery exists in any part of the world, why might they not be brought into this country—will the change affect their happiness? Yet, in such cases, it is highly material, and one reason is, that Missouri will be a new sovereignty, and slavery ought to be extinguished in the limits of every sovereignty, if it can be effected without dangerous consequences. Its existence will interest the State in the perpetuation of slavery.

It is represented as a violation of every principle of justice to prevent slaveholders from carrying their slaves with them to this State, if they should be inclined to remove into it, as the country was purchased by the general fund. With equal propriety the same argument could have been employed in relation to the States formed out of the Northwest Territory, as that was likewise a common fund; but has any serious inconvenience been experienced heretofore in this respect? None has been publicly made known. Gentlemen, moreover, say that it would be cruel to oblige those who should be desirous to settle in this State, to part with such slaves as had gained their affections, such as their favorite nurses and the playmates of their children. The number of this description would be few, and it did not occur to gentlemen that this would be a happy opportunity to give the best evidence of their attachment, by manumitting these favorites, and taking them along as free persons: this would afford them comfort the remainder of their lives, and the generous act would amply reward the master.

It has been intimated that this has become a question of high excitement and passion, and that we are carried away in the tide of popularity. Let it be recollected that, if the measure of restriction is popular in the North, the doctrine of non-restriction is equally popular in the South, and the result will show whether they will leave the Southern ranks and entitle themselves to the praise of the North for their firmness and independence. I have heard it said (but I am not certain that it was in the House) that slaves are as happy as the lower class of white people. If this is correct, it must be in consequence of the degradation to which they are reduced; their faculties are not allowed that expansion which nature intended; they are kept in darkness, and are unacquainted with their true situation, as well in regard to their present state as to their future existence. Slavery in the abstract strikes the heart with abhorrence: this life can have no charms if it is not sweetened with liberty; and if a slave has any accurate knowledge of his own condition, nothing can appear before him but sad-

ness, from the dawn of the morning to the close of the evening.

Many suggestions have been made in relation to a compromise. But, if we reflect a moment, it will be easily perceived that, under the circumstances, it will be impossible to compromise a question of this character. A compromise usually has for its basis mutual concessions, which are equally obligatory; but, if we should pass a law excluding slavery from the remaining territory, where would be the security that another Congress would not repeal it? It will be but an ordinary act of legislation, and whenever there shall be an application for a new State, we shall be met with the same constitutional objections that now exist. It is, in fact, yielding all for which we have been contending, and if we once give up the ship, slavery will be tolerated in the State of Missouri, and we can never after remove it.

It is true that a compromise was made on the subject of slavery at the adoption of the constitution, but it was one of an obligatory nature, and it arose out of circumstances that could not be controlled. The constitution was necessary to save us from domestic discord and foreign ambition; we were then in our infancy; but now our national strength bids defiance to any nation, where, I ask, is the necessity of deceiving ourselves or our constituents by this mere pretence of a compromise?

The gentlemen on the other side tell us that, if the restriction is carried, the Union will be dissolved. Missouri alone, notwithstanding her high displeasure, could make but a feeble effort in this respect, and will the respectable, patriotic, and high-minded State of Virginia, be disposed to break up the Union on this occasion—Virginia that has enjoyed the highest honors of the nation, both in war and in peace? Will the other slaveholding States join in the contest? What is there to justify such a calamitous event? Wherein are we betraying our country? Do we not stand on the ground of our ancestors? Are we not maintaining the same principles that animated their hearts when, like a band of patriotic brothers, they unanimously excluded slavery from the Northwestern Territory? I have no wish to say that the honorable gentlemen only mean to intimidate us—that would be unkind—but I beg leave to differ with them on this subject. I have a more exalted opinion of the patriotism of the South; they will never cause American blood to be spilt, unless for reasons that would justify them in the eyes of the world; and, in the language of Mr. Jefferson, "the Almighty has no attribute that would side with them in such a cause as this would be." Has it come to this, that the extension of slavery is to be considered as one of the pillars of our liberty? This, indeed, would be a political paradox.

MONDAY, February 7.

The Missouri Bill.

The House resumed, as in Committee of the Whole, (Mr. BALDWIN in the chair,) the consideration of the Missouri bill, the restrictive amendment being still under consideration.

Mr. HEMPHILL, of Pennsylvania, resumed and concluded the speech which he commenced on Saturday, in favor of the restriction. His speech is given entire in the preceding pages.

Mr. MCLANE, of Delaware, addressed the committee as follows:

Mr. Chairman—If it were not for the peculiar situation in which I shall be placed, in regard to some respectable opinions prevailing in the State from which I have the honor to come, by the vote I shall feel it my duty to give upon the present occasion, I should not trespass upon the time of the committee. If the eloquence and ability which have been already employed in this debate have not produced any change of opinion, I have not the presumption to suppose that it will be in my power to vary the result; but, if it is not for me to disturb the opinions of others, I may afford a justification of my own, and furnish to those who may hereafter feel any interest in the course I deem it my duty to pursue, an exposition of the motives by which I am governed.

I concur with the honorable mover of the amendment, that it presents an act of no ordinary legislation; and I am very sure he cannot easily overrate its importance—an importance derived not more from the intrinsic magnitude of the question, in all its relations, than the excitement and tumult to which it has given rise in every part of the Republic. I do not believe that any subject has ever arisen in this country, since the formation of the Government, which has produced a more general agitation, or in regard to which greater pains have been taken to inflame the public mind, and control the deliberations of the national councils. The dazzling reward of popular favor, invested with all its fascinations, has been held up on the one hand, and the appalling spectre of public denunciation, with all its frightfulness, on the other. The sincere and humane, actuated I am sure by the best and purest motives; the aspiring demagogue and ambitious politician; those who wish well to their country; and those who seek power in the troubled sea of popular commotion; have promiscuously united in these public agitations, until the press has teemed and our tables groaned, with a mass of pamphlets and memorials beyond example.

The State which I have the honor, in part, to represent, has been the theatre of a full share of this agitation; and the honorable Legislature of that respectable State has been pleased, recently, to take up the subject, and have unanimously resolved that, in their opinion, Congress have the constitutional power, and ought to impose this restriction upon the new States.

Entertaining the respect I do for the intelli-

gence of the people of my own State, and the character of their Legislature, I cannot find my opinion in opposition to theirs without the most unfeigned regret. For, although I do not concede to the Legislature of a State the right of instructing the representatives of the people in Congress, or of employing its official character to influence their conduct, or to affect their responsibility, yet, viewing their acts, in this respect, as the opinions of the individual members merely, I cannot regard them with indifference, selected, as they undoubtedly should be, from their fellow-citizens, as distinguished for some portion both of virtue and intelligence.

I am free to admit, that, in subjects of general policy merely, the will of the people, when fully and fairly ascertained, is always entitled to great weight; and, upon an occasion like the present, if I were influenced by motives of expediency only, I should be much disposed to yield my impressions to that will. But, in constitutional questions, the representative is, or ought to be, governed by higher considerations; and he would be unworthy of his trust who could be regardless of them. He is sworn to support the constitution, and he takes his seat in this House, to legislate for the nation, under the provisions of that instrument. His own integrity, and the safety of our common institutions, depend upon his strict personal accountability; his own opinions, formed by the best lights of his own impartial judgment, must be his guide; and he cannot adopt those of others, when conflicting with his own, without a surrender of his conscience. In such cases, popular feelings and legislative recommendation can have no greater influence than to weaken one's confidence in his own impressions, and to dictate a reinvestigation of the subject, to see if conclusions may not have been drawn from false premises, or views overlooked, which, if they had been adverted to, would have led to a different result. I have allowed the recommendation of the Legislature of Delaware to have such an effect in this instance. I have deliberately reviewed and reconsidered this important subject, divested, I am sure, of any improper feelings, and prompted by every allurement of popular favor, to reach a conclusion in conformity with their views; but, I am bound to say, after this re-investigation, pursued with great labor, and a full sense of my responsibility, that I believe, in my conscience, that Congress does not possess the power to impose the contemplated restriction. In this belief, then, Mr. Chairman, and resting upon the principles of the constitution, and my duty to a power higher than any legislature, I must regret the difference of opinion, and be contented with an upright discharge of my public trust. I will take leave to say, sir, in the language of an illustrious man on another occasion, who I could desire to imitate in many other respects, "I honor the people, and respect the legislature; but there are many things in the favor of either, which are objects, in my account, not worth ambition. I wish popularity, but it is that popularity which follows, not that which is run after. It is that popularity which, sooner or later, never fails to do justice to the pursuit of noble ends, by noble means. I shall not, therefore, on this occasion, do what my conscience tells me is wrong, to court the applause of thousands; nor shall I avoid doing what I deem to be right, to avert the artillery of the press."

I shall not, in this place, sir, imitate the example of other gentlemen, by making professions of my love of liberty, and abhorrence of slavery; not because I do not entertain them, but because I consider that the great principles of neither are involved in this amendment. It is a coloring, to be sure, of which the subject is susceptible, and which has been used in great profusion, but it serves much more to inflame feelings and prejudices unfriendly to a dispassionate deliberation, than to aid the free exercise of an unbiased judgment.

This amendment does not propose, nor has it for its object, to inhibit the introduction of slaves from parts beyond the United States; in such a scheme there is no intelligent man in the Union who would not cordially concur. Neither does it propose to promote the emancipation of the slaves now in the country; this is admitted to be impracticable; the wildness of enthusiasm itself acknowledges its incompetency for such an undertaking. The truth is, sir, that this species of unhappy beings are now among us; brought here, in part, by events beyond our control, and, in part, under the authority of our own constitution; and it behooves us, by a wise and prudent administration of our powers, to meliorate their condition, and accommodate the evil, as far as it may be practicable, to the peace and happiness of our white population, and the stability of our institutions. It is not pretended, even that the condition of the unhappy slave himself would be improved by the success of this amendment; on the contrary, it has been insinuated, as boldly as the sentiment would justify, that his confinement to a narrower compass might lead to his extirpation, by the gradual, but sure process of harder labor, and scarcity of subsistence. I am free to say, that the condition of the slave himself would be meliorated by his dispersion, nor do I attach the same importance, as some gentlemen appear to do, to the danger of encouraging an illicit importation from abroad by permitting a market west of the Mississippi. It is an argument founded on the futility of legal restraint, the worst possible species of argument by which a legislature could be influenced. It would prove the inutility of every act of legislation, or might be used to justify every species of usurpation. It would equally demonstrate the futility of the proposed amendment itself; for, if gentlemen cannot hope to exterminate the foreign slave trade, by all the precautions legitimately in their power, founded in a unanimity of legislation, strengthened by the powerful force of public sentiment, and the abominable nature of the traffic itself,

what greater reliance can they place upon this restriction, foisted into the constitution of a free people against their consent, on which account, alone, it would be an object of hatred and contempt, and the violation be winked at by a great portion of the people, if not by their public authorities?

Sir, this amendment does not even propose to prevent the introduction of slavery into Missouri for the first time; it has already taken root there; we found it there when we acquired the territory, and it has grown and extended under the sanction of our own laws; but the whole force and effect of the amendment is, to take from the people of Missouri the right to decide, for themselves, whether they will permit persons removing thither, from other States in which slavery is tolerated, to take their slaves with them. This object would not be undesirable, if it could be accomplished by the legitimate powers of Congress; but we have no right to do it by an assumption of power in ourselves, or by an unauthorized use of the power of others.

Mr. Chairman, the great question involved in this amendment is neither more nor less than this: whether Congress can interfere with the people of Missouri, in the formation of their constitution, to compel them to introduce into it any provision, touching their municipal rights, against their consent, and to give up their right to change it, whatever may be their future condition, or that of their posterity? Every thing beyond this is merely the imposing garb in which the power comes recommended to us. It is certainly true, that an attempt to take from this people the right of deciding whether they will or will not tolerate slavery among them, is less objectionable because of its end, than it would be if it interfered with some other local relation or right of property; but the power to do this implies a power of much greater expansion. Congress has no greater power over slavery, or the rights of the owner, in any particular State, than it has over any other local relation or domestic right; and, therefore, a power to interfere with one must be derived from a power to interfere with all. Sir, it is manifest, from the avowal of the honorable mover, that he contemplates a wider scope of power, and the attainment of important ends, other than those which lie upon the surface of this amendment. The gentleman seemed not to limit his view to the municipal effect of this power; in his eye it was to have an indirect operation upon the Federal powers of the General Government, since his chief objection appeared to be to the enumeration of slaves in the ratio of Congressional representation. Sir, I think it will be in my power to show that the gentleman's fears, on this score, are groundless; but they serve to prove, nevertheless, that this is neither wholly a question of slavery, nor a power limited to this single object, but that it is only one, selected from an immense mass of power, authorizing Congress to control the rights of a free people in the formation of their State constitution; and, in this way, to enlarge the operation, if not the nature, of the political power of the General Government.

The people of Missouri come here with the Treaty of 1803 in their hands; they demand admission into the Union as a matter of right—they do not solicit it as a favor. If their constitution is republican, and consistent with the provisions of that under which we are acting, we have no alternative, unless it is to refuse to execute our own contract—to violate the plighted faith of the nation. No one will undertake, at this day, to deny that the United States had the right to acquire the Territory of Louisiana. They had the right also to acquire it by contract; the right of acquiring includes the right of governing it; and, in contracting for its acquisition, it is competent to stipulate the terms and the principles by which the right of governing it should be exercised. If the United States were competent to make the treaty, the treaty was competent to take away the discretion of Congress, for it is declared to be the "supreme law of the land."

It must also be conceded that the power to admit new States, is one of the powers of the General Government, and I shall not deny that, in its ordinary exercise, it belongs to Congress, but being a power in the General Government, given up by the States, its exercise may be regulated and controlled by the treaty-making power; which is the extraordinary and supreme power of the same Government. The powers of the General Government are executive, legislative, and judicial; and are, ordinarily, exercised by the respective departments on which they naturally devolve; they may or may not be exerted, as circumstances make it proper. But the treaty-making power is the extraordinary power which may stipulate with regard to the exercise of any of them, and its stipulations are binding because they render the exercise of the power necessary. No treaty can be unconstitutional which stipulates for the performance of any matter which it is within the power of the General Government to perform; a distinction to which the honorable gentleman from Pennsylvania (Mr. HEMPHILL) did not advert, when he found it necessary to elude the obligations of the Treaty of 1803, by pronouncing it unconstitutional. A treaty is only unconstitutional, when it stipulates for the exercise of powers, or the surrender of rights, which never have been given to the General Government, but belong to the States, and the people. This is the exposition which has ever been given to the treaty-making power, since the famous British treaty. It would be difficult to imagine a treaty that did not contain some stipulations in regard to the powers either of the executive or legislative departments of the Government. The power to regulate commerce with foreign nations, to appropriate money, and to raise armies, belongs

to Congress. But the treaty-making power may make stipulations in regard to either, and for the exercise of either, and the Congress and the nation would be bound by them. The interference of Congress might, in some instances, be necessary to carry the stipulations into effect; and it would be their duty in good faith to yield it. If they refused, the national faith would be violated, but the treaty would not be void. In the very instance of the Louisiana treaty, it was stipulated, among other things, to pay $15,000,000 as the price of the cession. This amounted to a stipulation that Congress should appropriate that sum of money. Congress cannot have, and ought not to have, a more unlimited discretion, in the exercise of any power, than in that of appropriating money; yet the treaty stipulated that they should exercise the power, and the Congress did exercise it; could not the treaty then stipulate that they should admit a State into the Union, and if it did so, are not Congress equally bound to execute it? Shall it be said, that their discretion is gone in the one case, but exists in the other? Then, sir, has the Treaty of 1803 stipulated that Congress shall exercise their power to admit this State, and have Congress sanctioned the stipulation?

The third article contains this provision: "The inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

It must be conceded that this article was designed to have some meaning, and to secure to the inhabitants some rights and advantages to which they could have no claim without it. It will not do, in the interpretation of an important instrument of this description, to say that the only article which applies to the inhabitants whose rights would be affected by the transfer, is a mere matter of form, without substance or design. Its own language clearly imports its intention, to confer "rights, advantages, and immunities," of a political character, and such as they could not have claimed as a matter of right without this stipulation. What would have been the condition of these inhabitants in relation to the Government of the United States, if the treaty had not contained this provision? Sir, the power of the General Government over them and the territory, would have been supreme; it could have kept them in a state of perpetual colonial dependence; placed over them any form of government whatever, and, if it pleased, have sold them again to any foreign power. It would have been completely discretionary to have "incorporated" them into the Union or not, as it pleased, and to give them such rights as it thought proper, and when it pleased. Now, these are the very powers this treaty meant to tie up; and when we consider the objections which the language and foreign habits of these inhabitants might have interposed to their incorporation into the Union, and that the United States were bargaining more for the free navigation of the Mississippi River than an accession of territory or population, it became an imperious duty on the French Government to stipulate, that if the United States obtained their object, they should be compelled to extend the rights and advantages of free government to the inhabitants.

They are to be incorporated into the *Union* of the United States, and are to be admitted as soon as possible to the enjoyment of the rights, advantages, and immunities, &c., and "in the *mean time* they are to be protected in the free enjoyment of their property." This latter clause shows that their incorporation into the Union meant more than a Territorial form of government; they were to be under such a government until they could be incorporated into the Union, and during that time their property was not to be disturbed. It was only under that form of government that the United States could interfere with these rights. Their power would cease when it became possible to incorporate them into the Union, and admit them to the enjoyment of all the "rights, advantages, and immunities, of citizens of the United States;" in virtue of which, they would themselves be authorized to regulate their own property.

Now, Mr. Chairman, the people of Missouri cannot be incorporated into the Union but as the people of a "State," exercising State government. It is a Union of States, not of people, much less of Territories. A Territorial government can form no integral part of a union of State governments; neither can the people of a Territory enjoy any federal rights, until they have formed a State government, and obtained admission into the Union. The most important of the federal advantages and immunities consist in the right of being represented in Congress—as well in the Senate as in this House—the right of participating in the councils by which they are governed. These are emphatically the "rights, advantages, and immunities, of citizens of the United States." The inhabitant of a Territory merely has no such rights—he is not a citizen of the United States. He is in a state of disability, as it respects his political or civil rights. Can it be called a "right" to acquire and hold property, and have no voice by which its disposition is to be regulated? Can it be called an advantage or immunity of a citizen of the United States to be subjected to a Government in whose deliberations he has no share or agency, beyond the mere arbitrary pleasure of the governor—to be ruled by a power irresponsible (to him, at least) for its conduct? Sir, the rights, advantages, and immunities, of citizens of the United States, and which are their proudest boast, are the rights of self-government—first, in their

State constitutions; and secondly, in the Government of the Union, in which they have an equal participation.

One principal point of difference between the two great parties, by which the people of this country were originally divided, was in regard to the force and effect of the treaty-making power. Mr. Jefferson, who was at the head of the Administration when the treaty of 1803 was concluded, entertaining the opinion that it was not binding upon Congress until it received their approbation, submitted it to them, and recommended the passing of the necessary laws to carry it into effect. The party at that day opposed to Mr. Jefferson's Administration pronounced the treaty unconstitutional, because it stipulated to admit States into the Union, carved out of a territory which formed no part of the old Thirteen States. They did not deny the force of a treaty containing engagements in regard to the powers of Congress, but said that no department of the General Government had power to make new States out of new territory. The third article of the treaty of which I have been speaking was the objectionable clause, and both parties concurred in ascribing to it the same construction for which I now contend. On that occasion, Mr. Griswold, of Connecticut, and one of the ablest and most distinguished statesmen of whom this country can boast, when speaking of the just interpretation of this third article, said: "It is perhaps somewhat difficult to ascertain the precise effect which it was intended to give the words which have been used in this stipulation. It is however clear, that it was intended to incorporate the inhabitants of the ceded territory into the Union, by the treaty itself, or to pledge the faith of the nation that such an incorporation should take place within a reasonable time." The honorable Mr. Tracy, of the Senate, upon the same occasion, and in reference to the same article, also expressed himself in the following terms: "The obvious meaning of this article is, that the inhabitants of Louisiana are incorporated by it into the Union upon the same footing that the territorial governments are, and the territory, when the population is sufficiently numerous, must be admitted as a State, with every right of any other State." Mr. Pickering went even further, and said: "If in respect to the Louisiana treaty, the United States fail to execute, and within a reasonable time, the engagement in the third article to incorporate the territory in the Union, the French Government will have a right to declare the whole treaty void." This construction was acquiesced in by the opposite side, who contended that the power to admit new States was not confined to the old territory, and, that as the treaty was now submitted for the approbation of Congress, they had only to determine whether it was expedient to adopt it with this provision. After the utmost deliberation, and with a full understanding of the clear import of this third article, Congress determined to adopt the treaty. They accepted the territory, and passed the necessary laws for carrying it into full effect. They made it their own act. They subsequently divided it into two territorial governments, and made no attempt to prevent the existence of slavery in either; they sold the land, and invited emigrants to go thither from other parts of the United States, and buy and settle, but did not prohibit them from carrying their slaves with them. They sold the land and put the money in the public treasury. As soon as the population of that part of the territory called, under the division, Louisiana, became sufficiently numerous, Congress admitted it into the Union as a State upon the same footing with the original States: no attempt was made to insist upon a restriction similar to the present, or to impose any other condition against their consent which in any manner affected the rights of the people in the exercise of their sovereign power. The provisions to which Congress required the people of Louisiana then to submit, will be found, with one exception, to be such as were prescribed by the Constitution of the United States, and to which they would have been subjected, though they had not put them into their constitution. Their enumeration in the law was wholly a matter of caution. On that occasion, also, the people voluntarily assented to the terms, and the right of Congress to impose conditions against their will never was asserted. It was particularly so in that part of the law which stipulated that the lands sold by the United States should not be taxed for five years. It is, however, to be remarked, that this was not a destruction of the power in the people to tax the land; it was an agreement merely between the parties to suspend it for a term of years; but the restriction now attempted to be imposed upon the people of Missouri is a complete annihilation of their power and right forever. In the case of Louisiana it was no part of their constitution; it was a mere agreement by separate contract not to use a power admitted to be in them for a limited time. In the case of Missouri it is an attempt to make a constitution extinguishing a power, and making that constitution irrevocable.

We have been referred, however, to the Declaration of Independence, as declaratory of the principles of the constitution in this respect. I should scarcely have deemed this topic worthy of an answer, but for the confidence with which it has been reiterated in this debate. If the abstract principles contained in this memorable paper could possibly be supposed to have any reference to the condition of the black population in the United States, yet, as it preceded the adoption of the constitution, their practical effect must depend altogether upon the positive provisions of that charter. But the truth is, sir, that the Declaration of Independence had no reference to those persons who were at that time held in slavery. It was pronounced by the freemen of the country, and not by slaves.

No one pretended that they acquired any claim to freedom on this account; on the contrary, the Revolution found them in a state of servitude, the acknowledgment of our actual independence left them so, and the Constitution of the United States perpetuated their condition. The Declaration of Independence was the act of open resistance on the part of the white freemen of the colonies, against the pretensions of the mother country to govern them without their consent; to assert their inalienable right of self-government, and to alter or abolish it whenever it should be necessary to affect their safety and happiness. It was the resistance of freemen to the assumption of a power on the part of Great Britain, precisely similar to that which we are now endeavoring to impose upon the people of Missouri. It expressly asserts the principles that "all just powers of government are derived from the consent of the governed; and the right of the people to alter or abolish, and institute it anew, as to them shall seem most likely to affect their safety and happiness." I do not deny that the principles of the Declaration of Independence are those of the constitution; on the contrary, I admit that they are those upon which all our institutions repose; they are those upon which the people of Missouri claim the right to make their own constitution, and resist the imposition of any species of government deriving its powers from any other source. But I contend that it never designed to assume or assert any principle whatsoever in regard to the slave population of the United States, and therefore that it cannot be used in this debate, either as declaratory of their rights or explanatory of the principles of the constitution and government in their behalf. It is unreasonable to assert the contrary, when every one knows that while the freemen of this country were openly resisting the usurpations of the British Crown, they did not relax in the slightest degree their hold upon the negro slave; and to him it was a matter of entire unconcern who should govern his master, as in all conditions his master would continue to govern him. I do not advocate the consistency of all this: I take things as I find them under our form of Government; though when we throw our eye towards St. Domingo, and reflect upon the scenes which ensued the heedless enthusiasm which characterized the French Revolution, we cannot fail to admire the cautious wisdom of our ancestors in not hazarding the great object of their struggle, by suddenly letting loose their unfortunate, though degraded, slave population. Besides, sir, the principles of the Declaration of Independence would not be satisfied by merely loosening the shackles of the slaves; they would assert not only the rights of a freeman, but an equality of those rights, civil and political. And where is the State in the Union in which the emancipated negro has been admitted to the enjoyment of equal rights with the white population? I know of none. In some, to be sure, their rights may be greater than in others; but in none, I believe, are they upon an equality. In the State which I have the honor in part to represent, it has been the settled uniform policy to preserve a marked and wide discrimination, and I am free to express a hope that the policy will never be abandoned. I am an enemy to slavery, but I should deprecate a policy assailing that discrimination which reason and nature have interposed between the white and black population. I forbear to press this part of the subject, sir; it presents many dark images, which it would be unbecoming in me here to express.

No little reliance has also been placed, by the honorable mover, upon the clause in the constitution, vesting in Congress a power to dispose of and make all needful rules and regulations respecting the territory, or other property belonging to the United States.

I do not propose to enter minutely into the inquiry whether the power of Congress to establish a territorial government is derived from this clause. I incline to the opinion that it is not. The power here conferred is a power to dispose of and make needful rules respecting the property of the United States. It was designed, I think, to authorize the sale of the land for purposes of revenue, and all regulations which might be deemed necessary for its proper disposition; or to convert it to other public objects disconnected with sale or revenue; to retain this power, even after the Territory had assumed a State government, and perhaps to divest from the State government the right of taxing it, as it would do the property of individuals. It is silent as to the people, and their slaves are the property of their owners, and not of the Government. *The right to govern a territory is clearly incident to the right of acquiring it.** *It would be absurd to say that any*

* And such was the practical understanding at the time; for the acquisition of the Northwest Territory, and the ordinance for its government, were coincident acts, one growing out of the other, and as near together in their birth and origin as two such acts could be—as near together as the delivery of a deed to a legislative body, and an act of legislation founded upon that deed, could be. The deed of cession from Virginia was delivered in March, 1784; Mr. Jefferson, one of the signers of the deed on the part of Virginia, and then a member of the Continental Congress, immediately moved for a committee to report a plan for the government of the ceded Territory; which plan was reported in April, formed into an ordinance, and passed; and remained in force until repealed by the amended ordinance of 1787. Thus the acquisition of the territory, and the ordinance for its government, were coincident acts, the second growing out of the first—not merely as an incidental right, but as a duty imposed by the conditions of the acquisition. These conditions were, *to dispose of the soil, and to build up political communities upon it;*—neither of which could be done without a law to sell the land, and a government to rule the people. The principal difference between the ordinance of 1784 and 1787, was in the anti-slavery feature, that clause being struck out of Mr. Jefferson's plan, because it did not provide for the recovery of fugitives from service; and restored in the ordinance of 1787 because it did.

Government might purchase a territory with a population, and not have the power to give them laws; but, from whatever source the power is derivable, I admit it to be plenary, so long as it remains in a condition of territorial dependence, but no longer. I am willing at any time to exercise this power. I regret that it has not been done sooner. But, though Congress can give laws to a Territory, it cannot prescribe them to a State. The condition of the people of a Territory is to be governed by others; of a State to govern themselves. This is the great favor we permit them to enjoy when we exalt them to the character of a State. The instant we authorize them to form their constitution, the territorial disabilities, and the powers of Congress over them, crumble together in the dust. A new being, and a new relation spring up; the State authority, derived from the just power of the people, takes its place; every feature of the territorial authority becomes effaced, and the federal powers of Congress, encircling a State, commence their operation. There is nothing of territorial disability on the one hand, or territorial authority on the other, which passes into the new order of things; if they did, the State would be incomplete.

It appears to me, then, Mr. Chairman, that the right contended for cannot be derived from the power to regulate commerce among the several States; and therefore that the power, which was restrained until the year 1808, was that of preventing the migration or importation of persons from foreign countries only. It would be very immaterial, in the present argument, whether the word persons related to slaves only, or to freemen as well as slaves; I believe, however, it relates to both.

In a just interpretation of this clause, we are bound to assign to each word a distinct meaning, to suppose that each had a definite object, and that neither was used unnecessarily. If both "migration" and "importation" be applied to slaves, one would be wholly useless. The word "importation" would embrace every possible means by which slaves could be introduced into the country against their will, as it would every means by which they could be removed from one State into another. We see, moreover, that, upon the importation only, the imposition of a tax or duty is authorized, and, if slaves can migrate at all, they do so as well when coming hither from a foreign country, as in going from State to State, and it is therefore unreasonable to suppose that while it was the evident policy and intention to prevent their coming in at all, the "importation" only would be obstructed, and their "migration" left free and unrestricted.

But, sir, the word "migration" cannot apply to the forcible or involuntary removal of a slave from any State, foreign or domestic. It is the voluntary act of a free agent; and a slave has no such will, and is no such agent; he is subject to the will of a master, by whom all his actions are controlled. It is, moreover, a right, so defined by all the best writers on the subject; it is the right of quitting one's country, and of going into another in the pursuit of wealth and happiness, and, according to the principles of our republican form of government, it is inalienable. But, will it be pretended that the slave has any such right, when we have seen that, in the only instance in which he voluntarily leaves his master's service, he is compelled, in defiance of all the municipal regulations of other States, to be reclaimed? No, sir, he has no such right; he never changes his residence, but under the compulsion of a power he dare not resist. It is no exercise of a right, when the unhappy slave is taken by his owner from place to place—he obeys a hard fate which he cannot control, and he can, with no more propriety, be said to migrate, than the exile who is driven from his family and home, into involuntary banishment.

The term "migration," as here used, is also a general one, and has relation to the government by which it is to be controlled. Its true meaning is that of quitting their own country, and of removing beyond the jurisdiction of the Government; its meaning is precise and technical. Therefore, though a man may change his residence, so long as he remains under the Government of the United States, he does not migrate, in the sense of the constitution. When a man removes from one county to another of the same State, he cannot be said to have migrated in relation to that State, nor can he be said to migrate in relation to the United States, when he removes from one State to another in the Union. He is still in the same country, still under the same jurisdiction and laws; enjoying equal rights, and liable to the same obligations; he is still a citizen, nay, an inhabitant of the United States, and the protecting arm of the constitution shields and conducts him wherever he goes; he is not an emigrant, until he has turned his back upon his country, and quitted its jurisdiction.

But, Mr. Chairman, if the words, as used, be in any degree ambiguous, we are bound to consider the circumstances under which the constitution was adopted, and the object which was to be effected by the restrictive clause. It is clear that the General Government possessed the power, under the constitution, to restrict the "importation" of slaves from abroad, either as incident to their general powers, or to the particular power to regulate commerce with foreign nations. It is, in my opinion, equally clear that they also possessed the power of prohibiting the migration of foreign freemen, under particular circumstances. It has been already shown that all our intercourse with foreign nations is peculiarly under the control of the General Government, to which the right of regulating or preventing foreign emigration is necessarily incident; if it were otherwise, any single State, by opening its ports to foreign emigration, might let in a population to any extent, and against the evident policy and interests of

all the others. At the adoption of the constitution, however, the States being in their infancy, it was their policy to encourage emigration from abroad; and, as its interruption has been one of the causes of complaint against the British Government, it was natural that the powers of the Federal Government should be placed under some restraint in this respect.

The year 1808 was, I imagine, agreed upon, in consequence of the compromise upon the other point. A consideration of the object of the compromise will leave no room for doubt. It related to the increase of population, either of freemen or slaves, from abroad. The constitution had provided, that three-fifths of the slave population should be enumerated in the ratio of representation, which would have been constantly augmenting, by the importation from abroad, beyond the natural increase of this species of population, and it became, therefore, a matter of compromise, upon the mere point of time for which the importation should be tolerated. But this concession could not have been made without a similar license to the emigration of free persons in favor of the northern and non-slaveholding States, and thus the affair was adjusted by allowing the same period to each. The essence of this compromise being entirely an affair of time, leaves no doubt as to its meaning. It was to prevent the premature ascendency in the South, by an undue increase of this population, an object which would have been as effectually promoted by the dispersion of the slaves among the other States, as by inhibiting their introduction from abroad, for, in case of their diffusion, the North would acquire their share of the numbers, and so the representation would be equalized.

That this clause had no sort of reference to a power to prevent the removal of slaves from State to State is further evident, from the important consideration that, previous to the adoption of the constitution, each State itself possessed the undoubted authority to prohibit the bringing of slaves from any other State. It is, therefore, extremely improbable that, with all the jealousy and hostility of the Northern States upon this subject, they should have called in the aid of the General Government to accomplish what they could do without it, and thus weaken their own power, by confiding it to councils who had an interest in encouraging what they desired to abolish. It is impossible, sir, to resist this construction, when in aid of it are arrayed the acts and practice of all the States, from the establishment of the General Government up to the present day. Sir, it is a power which can be safely exerted only by the individual States themselves; they never will, and never ought to submit to its exercise by the General Government.

Sir, I invite gentlemen to look at the present state of the public councils, and consider whether they do not hazard their whole object by persisting in a measure so repugnant to the ardent feelings of at least one moiety of this Empire, and so much opposed to the constitutional views of many of the friends of the avowed policy. It is a consideration to which a statesman is bound to look. If actuated by motives of humanity and the public peace, he would be criminal to disregard it. We see it ascertained, beyond doubt, that the Senate will not consent to this restriction; and that, if we persist in it, they will not unite, even in any territorial regulation. The introduction of slaves into the Western country will remain free. Those who desire to send this property there for sale will be stimulated to do so without delay; the market there will rise in apprehension of the future acts of Congress; dealers and settlers will take advantage of it; and thus slavery will become too deeply rooted to yield to any means of extirpation which future councils may employ. In the mean time, too, public excitement increases; evil men seize upon the occasion to promote their designs; local prejudices spring up; and the spirit of jealousy and discord is raised in all parts of the country, which they who engender will be wholly unable to allay or direct. But if, consulting the present state of things, gentlemen will yield something to a spirit of harmony and mutual interests, we may now put this unpleasant subject to sleep forever. The people of Missouri will enter the Union with their rights unimpaired, and their feeling undisturbed; devoted to your institutions, and inspired with full confidence in your justice and generosity. The territorial soil will then be unpolluted with slavery. Its introduction in regard to that being prohibited, much the largest portion of the Western world will be peopled by a population unfriendly to slavery; and when they come to frame their State constitutions, preparatory to their future admission into the Union, they will voluntarily form them in conformity with their habits and principles. For, I desire to be understood as denying the authority of Congress to make any regulation for a territory, which can be binding upon the people against their consent, when they come to make their constitution, and after their admission into the Union. I sanctify no irrevocable ordinances; but their territorial regulations will accomplish the object, by creating a population whose interests it will be voluntarily to adopt the restriction. In this way, too, Missouri will be seated in the midst of non-slaveholding States, and the force of public sentiment will soon lead to the emancipation of her present slave population. For the accomplishment of all these objects, gentlemen are called upon merely to abstain from the assumption of a doubtful power over a resisting people.

When Mr. MCLANE had concluded—

Mr. CLAY (Speaker) rose and expressed a wish to address the committee on the highly important question before it; but the lateness of the hour prevented his asking its attention this afternoon; and he therefore moved that the committee rise.

The committee then rose, and obtained leave to sit again.

TUESDAY, February 8.

Missouri Bill.

The House then went into a Committee of the Whole, on this bill—the restrictive amendment being still under consideration.

Mr. CLAY (Speaker) rose, and addressed the committee nearly four hours against the right and expediency of the proposed restriction.*

The committee then rose, on the motion of Mr. SERGEANT (who, according to the usage, has priority of claim to the floor to-morrow,) and the House adjourned.

WEDNESDAY, February 9.

Slavery in the Territories.

Mr. FOOT submitted the following resolutions, viz:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be neither slavery nor involuntary servitude in any of the territories of the United States, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: *Provided,* That this shall not be construed to alter the condition or civil rights of any person now held to service or labor in the said territories.

Resolved, That it be, and it is hereby, recommended to the inhabitants of the several territories of the United States, that, for the purpose of effectually preventing the further extension of slavery, each territory, when authorized by Congress to form a constitution and State government, shall, by express provision in their constitution, prohibit involuntary servitude or slavery, otherwise than in the punishment of crimes.

Mr. NELSON, of Virginia, moved that the resolution be committed to the Committee of the Whole, which was now considering the Missouri bill. It was entitled to serious consideration, as it affected the important question now under discussion. He conceived this not the proper mode of bringing up the question; it should be in the usual form of an act, which should go through the several forms, while, as a resolution, introduced to-day to be decided to-morrow, it would not afford an opportunity for discussing its merits.

Mr. FOOT observed, in support of his resolutions, that it was well known to the House that the Senate had decided, (on the 2d day of February,) by a majority of almost two-thirds of that body, that the proposed restriction should not be inserted in the "bill to provide for the admission of Missouri into the Union;" that the House of Representatives have already consumed two weeks in discussing the same question; that further discussion would be a useless waste of time and money, as the expenses of Congress exceeded $2,000 per day; that no possible good could result from the discussion; that constitutional doubts on the subject were insuperable. He further remarked, that his object in proposing the resolutions was to prevent a further discussion, to relieve the subject from constitutional doubts, and to afford the friends of restriction an opportunity to prevent the further extension of slavery in all the territories over which Congress had an undoubted right to legislate, and which, in his opinion, would more effectually prevent the extension of slavery than the restriction proposed in the bill, because, if slaves were excluded during the settlement of a territory, it would never be permitted when the territory should become a State, and instanced particularly Ohio, Indiana, and Illinois; and closed his remarks by observing, no man detests slavery more than I do; few of the members of this House, and perhaps not one, have seen slavery in its most hideous forms. I, sir, have seen the miserable Africans on board the slave ship, and landed, and sold in market like beasts, and cruelly lacerated by their inhuman negro drivers, in the West Indies; and, sir, no gentleman would go further to prevent the inhuman traffic, or the extension of the evil, if I could believe Congress possessed the power; but, sir, we should remember our power is delegated power; and if the constitution does not give us this power, we do not possess it.

Mr. RHEA hoped the resolutions would be laid on the table until the great question now before the committee should be decided. Gentlemen were determined to discuss it, and decide upon it; and he hoped no proposition would be received to interfere with that discussion. Mr. R.'s motion to lay the resolutions on the table prevailed; and they were laid on the table accordingly.

The Missouri Bill.

The House then resumed, in Committee of the Whole, the consideration of this bill, and the restrictive amendment proposed thereto.

Mr. SERGEANT, of Pennsylvania, addressed the Chair as follows: The important question now before the committee has already engaged the best talents and commanded the deepest attention of the nation. What the people strongly feel, it is natural that they should freely express; and whether this is done by pamphlets and essays, by the resolutions of meetings of citizens, or by the votes of State Legislatures, it is equally legitimate, and entitled to respect as the voice of the public upon a great and interesting public measure. The free expression of opinion is one of the rights guaranteed by the constitution, and, in a government like ours, it is an invaluable right. It has not, therefore, been without some surprise and concern that I have heard it complained of, and even censured, in this debate. One member suggests to us that, in the excitement which prevails, he discerns the efforts of what he has termed an "expiring party," aiming to re-establish itself in the pos-

* This speech was not reported.

session of power, and has spoken of a "juggler behind the scene." He surely has not reflected upon the magnitude of the principle contended for, or he would have perceived at once the utter insignificance of all objects of factions and party contest when compared with the mighty interests it involves. It concerns ages to come, and millions to be born. We, who are here, our dissensions and conflicts, are nothing, absolutely nothing, in the comparison; and I cannot well conceive that any man who is capable of raising his view to the elevation of this great question, could suddenly bring it down to the low and paltry consideration of party interests and party motives.

Another member, (Mr. McLANE,) taking indeed a more liberal ground, has warned us against ambitious and designing men, who, he thinks, will always be ready to avail themselves of occasions of popular excitement, to mount into power upon the ruin of our Government, and the destruction of our liberties. Sir, I am not afraid of what is called popular excitement—all history teaches us that revolutions are not the work of men, but of time and circumstances, and a long train of preparation. Men do not produce them; they are brought on by corruption; they are generated in the quiet and stillness of apathy, and to my mind nothing could present a more frightful indication than public indifference to such a question as this. It is not by vigorously maintaining great moral and political principles, in their purity, that we incur the danger. If gentlemen are sincerely desirous to perpetuate the blessings of that free constitution under which we live, I would advise them to apply their exertions to the preservation of public and private virtue, upon which its existence, I had almost said, entirely depends. As long as this is preserved we have nothing to fear. When this shall be lost; when luxury, and vice, and corruption, shall have usurped its place, then, indeed, a Government resting upon the people for its support must totter and decay, or yield to the designs of ambitious and aspiring men.

Another member, the gentleman to whom the committee lately listened with so much attention, (Mr. CLAY,) after depicting forcibly and eloquently what he deemed the probable consequences of the proposed amendment, appealed, emphatically, to Pennsylvania, "the unambitious Pennsylvania—the keystone of the federal arch"—whether she would concur in a measure calculated to disturb the peace of the Union. Sir, this was a single arch; it is rapidly becoming a combination of arches, and where the centre now is, whether in Kentucky or Pennsylvania, or where, at any given time it will be, might be very difficult to tell. Pennsylvania may indeed be styled "unambitious," for she has not been anxious for what are commonly deemed honors and distinctions, nor eager to display her weight and importance in the affairs of the nation. She has, nevertheless, felt, and still does feel, her responsibility to the Union, and under a just sense of her duty has always been faithful to its interest, under every vicissitude and in every exigency. But, Pennsylvania feels also a high responsibility to a great moral principle, which she has long ago adopted, with the most impressive solemnity, for the rule of her own conduct, and which she stands bound to assert and maintain, wherever her influence and power can be applied, without injury to the just rights of her sister States.

1. We are about to lay the foundation of a new State, beyond the Mississippi, and to admit that State into the Union. The proposition contained in the amendment is, in substance, to enter into a compact with the new State, at her formation, which shall establish a fundamental principle of her government, not to be changed without the consent of both parties. And this principle is, *That every human being born or hereafter brought within the State shall be free.*

In this view, the ordinance of 1787, respecting the Northwest Territory, and the history of the States formed under it, are eminently deserving of consideration and respect. This ordinance was framed upon great deliberation. It was intended to regulate the government of the Territory; to provide for its division into States, and for their admission into the Union; and to establish certain great principles, which should become the fundamental law of the States, so to be formed. In its territorial condition, it was subject to the exclusive jurisdiction of Congress, to be exercised by the ordinary process of legislation. But it was one of the terms of the cession by Virginia to the United States, that this Territory, as it became peopled, should be divided into States, and that these States should be admitted into the Union, "upon an equal footing, in all respects, with the original States." We shall now see how the fulfilment of this engagement was effected. After providing for the territorial government, the ordinance proceeds as follows: "And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws, and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said Territory; to provide, also, for the establishment of States and permanent government therein, and for their admission to a share in the federal councils, on an equal footing with the original States, at as early periods as may be consistent with the general interests: It is hereby ordained and declared, that the following articles shall be considered as articles of compact between the original States and the people and States in the said Territory, and forever remain unalterable, unless by common consent." Then follow the several articles, of which the sixth declares, "that there shall be neither slavery nor involuntary servitude," &c. The fifth article provides, expressly, that "the constitution and governments (of the States) so to be formed

shall be republican, and in conformity to the principles contained in these articles." When the States of Ohio, Indiana, and Illinois, respectively, applied for admission, they were admitted upon the express condition that their constitutions should be republican, and in conformity to the ordinance of 1787. They assented to the condition, and were admitted "upon an eqnal footing with the original States."

I am aware that all this has been pronounced, rashly I think, to be a usurpation. The term does not well apply, at this time of day, after the repeated sanction of every kind which the ordinance has received. In truth, if there be any thing in our legislative history, which is entitled to our affection for the motives in which it originated; to our veneration for the authority by which it is supported; to our respect for the principles embodied in it; it is the ordinance of 1787. But the charge of *usurpation* is in every sense inapplicable, for the efficacy of the contract arises from the assent of the State to the condition proposed as the terms of her admission.

But this ordinance is entitled to still higher consideration. It was a solemn compact between the existing States; and it cannot be doubted that its adoption had a great influence in bringing about the good understanding that finally prevailed in the Convention upon several points which had been attended with the greatest difficulty. It passed on the 13th of July, 1787, while the Convention that framed the constitution was in session. From the minutes of that body, lately published, it will be seen that the two most important and difficult points to adjust, were those of the admission of States and the slave representation. This ordinance finally adjusted both these matters, as far as concerned all the Territories then belonging to the United States, and was therefore eminently calculated to quiet the minds of the advocates of freedom; to remove their objections to the principle of slave representation, and to secure their assent to the instrument which contained that principle, by limiting its operation to the existing States. It is not to be questioned that this ordinance, unanimously adopted, and, as it were, fixing an unchangeable basis, by common consent, had a most powerful influence in bringing about the adoption of the constitution. It is a part of the groundwork of the constitution itself; one of the preliminary measures upon which it was founded. Hence the unusual solemnity of the terms in which it is conceived, so different from the ordinary forms of legislation, and which give to it the character of a binding and irrevocable covenant.

I will now, with the leave of the committee, proceed to the remaining branch of this very interesting subject, or what is called the question of expediency.

It is decreed that slavery shall be a very great evil, and, as has been already remarked, one of its incidents is, that where it exists, it can never be fairly or freely discussed. It must be taken up at a certain point, which admits every thing that goes before, and among the rest (in the qualified sense) the lawfulness of its origin and existence. I will not disturb this arrangement, but I must be permitted to say that slavery is a great moral and political evil. If it be not, let it take its course; if it be good, let it be encouraged; if it be an evil, I am opposed to its further extension. This is a plain, simple, clear, intelligible ground. Most of those who have opposed the amendment, have agreed with us in characterizing slavery as an evil and a curse, in language stronger than we should perhaps be at liberty to use. One of them only, the member from Kentucky, who last addressed the committee, (Mr. CLAY,) rather reproves his friends for this unqualified admission. He says it is a very great evil indeed to the slave; but it is not an evil to the master; and he challenges us to deny that our fellow-citizens of the South are as hospitable, as generous, as patriotic, as public spirited, as their brethren of the North or East. Sir, they are all this, and even more. For some of the virtues enumerated they are eminently and peculiarly distinguished; and I believe they are deficient in none of them. It has long ago been remarked that the masters of slaves have the keenest relish for their own liberty, and the proudest sense of their own independence. It is natural that it should be so; the feeling is quickened by the degrading contrast continually before them. But it seems to me that the concession with respect to slavery, modified as it is in appearance, is quite as broad as the unlimited admission of every one else who has spoken. It is an evil to the slave; it is an evil founded in wrong, and its injustice is not the less because it is advantageous to some one else. Every injury, from the least to the greatest, might find the same sort of mitigation. It is a very great evil to him who suffers, but it is no evil to him who inflicts it. The same gentleman, however, has himself made the most unqualified concession; for he said he would recommend to the people of Missouri to abolish slavery, and that, in his own State, he would favor a general emancipation, as soon as it should be practicable, which he would not do if it were not an evil.

We are told, however, that it is no extension, it is only diffusion, that is to be the effect.

I confess I do not well understand the distinction. The diffusion of slaves is an extension of the system of slavery, with all its odious features; and if it were true, as it certainly is not, that their numbers would not be increased by it, still it would be at least impolitic. But, for what purpose is this diffusion to be encouraged? To disperse and weaken and dilute the morbid and dangerous matter, says one. To better the condition of the slaves by spreading them over a large surface, says another. A third tells us, that we cannot justly refuse to permit a man to remove with his family. A fourth comes di-

rectly to the question of interest, and his reason is, that land in the State of Missouri has been bought by individuals upon the faith of its being a slave State, and if we prohibit slavery there, these lands will fall in value. And in the rear of all these, comes an appeal to the public interest, in the shape of a suggestion, that slavery must be permitted in order to maintain the price of the public lands.

But it is only diffusion that is desired. Is this a reasonable desire? But little more than thirty years have elapsed since the constitution was adopted. Two States of this Union (South Carolina and Georgia) then insisted upon reserving, for twenty years, the privilege of supplying themselves with slaves from abroad, and refused to come into the Union unless Congress were prohibited during that time, from preventing importation. Congress were accordingly prohibited, and scarcely ten years have elapsed since the prohibition ceased. Can they reasonably ask already to be permitted to diffuse what they were then so anxious to possess? Are they so soon overburdened? It cannot be, for the illicit trade is still carried on, and that would end at once, if there were not a demand and a market.

I may be told, and told with truth, that the other slaveholding States are not exposed to the same remark. Of Virginia, especially, it gives me pleasure to speak on this subject, with sincere respect. While yet a colony, she remonstrated against the introduction of slaves. One of the earliest acts of her government, after her independence, put an end to the trade; and it has always been understood, to her honor, that, in convention, her voice and her most strenuous exertions were employed in favor of the immediate abolition of the traffic. Still, sir, with respect to any or all the slaveholding States, I may be allowed to ask, is diffusion now necessary? I think it is not. Look at the present price of slaves. Does that indicate an actual increase of their numbers to such an amount as to require diffusion? I am informed by a gentleman, upon whose accuracy I place great reliance, that, from the adoption of the constitution to the present time, the price has been regularly advancing. I do not mean to say that it is as high now as it was a year ago. It was then, like every thing else, affected by speculation. But taking average periods, say of five or six years, there has been a regular and constant advance, manifesting a demand at least equal to the supply.

I am fully convinced, however, that this idea of *diffusion* (as distinguished from *extension*, which is at present so great a favorite) is altogether founded in error. If the amount of the slave population were fixed, and it could not be increased, it would no doubt be correct to say, that in spreading it over a larger surface, you only diffused it. But this is certainly not the case. We need not recur for proof or illustration to the laws that govern population. Our own experience unhappily shows that this evil has a great capacity to increase; and its present magnitude is such as to occasion the most serious anxiety. In 1790, there were in the United States 694,280 slaves; in 1800, there were 889,881; and in 1810, 1,165,441. This is a gloomy picture. The arguments of gentlemen on the opposite side admit that an increase will take place; for they are founded upon the belief that the time must arrive when the slaves will be so multiplied as to become dangerous to their possessors. There are indeed no limits to the increase of population, black or white, slave or free, but those which depend upon the means of subsistence. By enlarging the space, generally speaking, you increase the quantity of food, and of course you increase the numbers of the people. Our own illustrious Franklin, with his usual sagacity, long ago discovered this important truth. "Was the face of the earth (he says) vacant of other plants, it might be gradually sowed and overspread with one kind only; as for instance with fennel; and were it empty of other inhabitants, it might in a few ages be replenished from one nation only; as for instance with Englishmen." If this does not exactly happen, it is only because in their march they are met and resisted by other plants and by other people, struggling like themselves for the means of subsistence.

By enlarging the limits of slavery, you are thus preparing the means for its indefinite increase and extension; and the result will be to keep the present slaveholding States supplied to their wishes with this description of population, and to enable them to throw off the surplus, with all its productive power, on the West, as long as the country shall be able and willing to receive them. To what extent you will in this way increase the slave population, it is impossible to calculate; but that you will increase it there can be no doubt, and it is equally certain that the increase will be at the expense of the free population.

And now, let me ask gentlemen where this diffusion is to end? If circumstances require it at present, will not the same circumstances demand it hereafter? Will they not, at some future time, become straitened in their new limits, however large? And what will you do then? Diffuse again—and what then? Even this diffusion will have its limits, and when they are reached, the case is without remedy and without hope. For a present ease to ourselves, we doom our posterity to an interminable curse. But, we seem to forget altogether, that while the slaves are spreading, the free population is also increasing, and, sooner or later, must feel the pressure which it is supposed may at some time be felt by the slaves. Where you place a slave, he occupies the ground that would maintain a freeman. And who, in this code of speculative humanity, making provision for times afar off, is to have the preference—the freeman or the slave?

In the variety of claims that have been pressed upon us, there is but a single one which deserves

a moment's attention. It is that which arises out of the inquiry, so often repeated, Will you not suffer a man to migrate with his family? Those who have been accustomed to the labor and service of slaves, it is not to be denied, cannot at once change their habits, without feeling, at least, a great deal of inconvenience. It is also true, that the associations which have been formed in families cannot be broken up without violence and injury to both the parties; and in proportion as the authority has been mild in its exercise, will the transfer of it to other hands be advantageous, especially to the servant. But, it is impossible to make a discrimination, or to permit the introduction of slaves at all, without giving up the whole matter. If you allow slavery to exist, you must allow it without limits. The consequence is, that the State becomes a slave State. Free labor and slave labor cannot be employed together. Those who go there must become slaveholders, and your whole system is overturned. Besides, if the limited permission did not, of itself, produce the evil, to an unlimited extent, (as it certainly would,) it is liable to abuses, beyond all possibility of control, which would inevitably have that effect. The numbers of a family are not defined; the number of families of this sort, which a single individual may have, cannot be fixed. It is easy to see how, under color of such permission, a regular trade might be established, and carried on, as long as there was any temptation of profit or interest. This argument, however, has been pressed, as if a prohibition to go with slaves was, in effect, a prohibition to the inhabitants of a slaveholding State to go at all. I cannot believe this to be the case. They may go without slaves; for, though slaves are a convenience and a luxury to those who are accustomed to them, yet the inhabitants of the slaveholding States would hardly admit that they are indispensably necessary. Besides, they may take their slaves with them as free servants. But, look at the converse. The introduction of slavery banishes free labor, or places it under such discouragement and opprobrium as are equivalent in effect. You shut the country then against the free emigrant, who carries with him nothing but his industry. There are large and valuable classes of people who are opposed to slavery, and cannot live where it is permitted. These, too, you exclude. The laws and the policy of a slave State will, and must be, adapted to the condition of slavery, and, without going into any particulars, it will be allowed that they are in the highest degree offensive to those who are opposed to slavery. It seems to me, sir, I may be pardoned for so far expressing an opinion upon the concerns of the slaveholding States; it seems to me that the people of the South have a common interest with us in this question—not for themselves, perhaps, but for those who are equally dear to them. The cultivation by slaves requires large estates. They cannot be parcelled out or divided. In the course of time, and before very long, it will happen that the younger children of Southern families must look elsewhere to find employment for their talents, and scope for their exertion. What better provision can they have than free States, where they may fairly enter into competition with freemen, and every one find the level which his proper abilities entitles him to expect? The hint is sufficient. I venture to throw it out for the consideration of those whom it concerns.

But, independently of the objections to the extension, arising from the views thus presented by the opponents of the amendment, and independently of many much more deeply-founded objections, which I forbear now to press, there are enough, of a very obvious kind, to settle the question conclusively. With the indulgence of the committee, I will touch upon some of them.

It will be remembered that this is the first step beyond the Mississippi—the State of Louisiana is no exception, for there slavery existed to an extent which left no alternative—it is the last step, too, for this is the last stand that can be made. Compromise is forbidden by the principles contended for on both sides. Any compromise that would give slavery to Missouri is out of the question. It is, therefore, the final, irretrievable step, which can never be recalled, and must lead to an immeasurable spread of slavery over the country beyond the Mississippi. If any one falter; if he be tempted by insinuations, or terrified by the apprehension of losing something desirable; if he find himself drawn aside by views to the little interests that are immediately about him, let him reflect upon the magnitude of the question, and he will be elevated above all such considerations. The eyes of the country are upon him; the interests of posterity are committed to his care; let him beware how he barters, not his own, but his children's birthright, for a mess of pottage. The consciousness that we have done our duty is a sure and never-failing dependence. It will stand by us and support us through life, under every vicissitude of fortune, and in every change of circumstances. It sheds a steady and a cheering light upon the future as well as the present, and is at once a grateful and a lasting reward.

Again, sir, by increasing the market for slaves, you postpone and destroy the hope of extinguishing slavery by emancipation. It seems to me that the reduction in the value of slaves, however accomplished, is the only inducement that will ever effect an abolition of slavery. The multiplication of free States will, at the same time, give room for emancipation, or, to speak more accurately, for those who are emancipated. This, I would respectfully suggest, is the only effectual plan of colonization; but it can never take effect while it is the interest of owners to pursue their slaves with so much avidity, or to pay such prices for them. Increase the market, and you keep up the value; increase the number of slaveholding States, and you destroy the possibility of emancipation, even if every part

of the Union should desire it. You extend, indefinitely, the formidable difficulties which already exist.

The political aspect of the subject is not less alarming. The existence of this condition among us continually endangers the peace and well being of the Union by the irritation and animosity it creates between neighboring States. It weakens the nation while it is entire: and, if ever a division should happen, can any one reflect without horror upon the consequences that may be worked out of an extensively prevailing system of slavery? We are told, indeed, both in the House and out of it, to leave the matter to Providence. Those who tell us so are, nevertheless, active and eager in the smallest of their own concerns, omitting nothing to secure success. Sir, we are endowed with faculties that enable us to judge and to choose; to look before and after, however imperfectly. When these have been fairly and conscientiously exerted, we may then humbly submit the consequences, with a hope and belief, that, whatever they may be, they will not be imputed to us. The issue of our counsels, however well meant, is not in our hands. But if, for our own gratification, regardless of all considerations of right or wrong, of good or evil, we hug a vicious indulgence to our bosom until we find it turning to a venomous serpent, and threatening to sting us to the heart, with what rational or consoling expectation can we call upon Providence to tear it away and save us from destruction?

It is time to come to a conclusion; I fear I have already trespassed too long. In the effort I have made to submit to the committee my views of this question, it has been impossible to escape entirely the influence of the sensation that pervades this House. Yet, I have no such apprehensions as have been expressed. The question is, indeed, an important one; but its importance is derived altogether from its connection with the extension, indefinitely, of negro slavery, over a land which I trust Providence has destined for the labor and the support of freemen. I have no fear that this question, much as it has agitated the country, is to produce any fatal division, or even to generate a new organization of parties. It is not a question upon which we ought to indulge unreasonable apprehensions, or yield to the counsels of fear. It concerns ages to come and millions to be born. It is, as it were, a question of a new political creation, and it is for us, under Heaven, to say what shall be its condition. If we impose the restriction, it will, I hope, be finally imposed. But if hereafter it should be found right to remove it, and the State consent, we can remove it. Admit the State, without the restriction, the power is gone forever, and with it are forever gone all the efforts that have been made by the non-slaveholding States to repress and limit the sphere of slavery, and enlarge and extend the blessings of freedom. With it, perhaps, is gone forever, the power of preventing the traffic in slaves, that inhuman and detestable traffic, so long a disgrace to Christendom. In future, and no very distant times, convenience, and profit, and necessity, may be found as available pleas as they formerly were, and for the luxury of slaves, we shall again involve ourselves in the sin of the trade. We must not presume too much upon the strength of our resolutions. Let every man who has been accustomed to the indulgence, ask himself if it is not a luxury, a tempting luxury, which solicits him strongly and at every moment. The prompt obedience, the ready attention, the submissive and humble, but eager effort to anticipate command—how flattering to our pride, how soothing to our indolence! To the members from the South, I appeal to know whether they will suffer any temporary inconvenience, or any speculative advantage to expose us to the danger. To those of the North, no appeal can be necessary. To both, I can most sincerely say, that, as I know my own views on this subject to be free from any unworthy motive, so will I believe that they likewise have no object but the common good of our common country, and that nothing would have given me more heartfelt satisfaction than that the present proposition should have originated in the same quarter to which we are said to be indebted for the ordinance of 1787. Then, indeed, would Virginia have appeared in even more than her wonted splendor; and, spreading out the scroll of her services, would have beheld none of them with greater pleasure than that series which began by pleading the cause of humanity in remonstrances against the slave trade, while she was yet a colony, and, embracing her own act of abolition and the ordinance of 1787, terminated in the restriction on Missouri. Consider what a foundation our predecessors have laid, and behold, with the blessing of Providence, how the work has prospered! What is there, in ancient or in modern times, that can be compared with the growth and prosperity of the States formed out of the Northwest Territory? When Europeans reproach us with our negro slavery; when they contrast our republican boast and pretensions with the existence of this condition among us, we have our answer ready—it is to you we owe this evil; you planted it here, and it has taken such root in the soil that we have not the power to eradicate it. Then, turning to the West, and directing their attention to Ohio, Indiana, and Illinois, we can proudly tell them these are the offspring of our policy and our laws, these are the free productions of the Constitution of the United States. But if, beyond this smiling region, they should descry another dark spot upon the face of the new creation—another scene of negro slavery, established by ourselves, and spreading continually towards the further ocean, what shall we say then? No, sir, let us follow up the work our ancestors have begun. Let us give to the world a new pledge of our sincerity. Let the standard of freedom be planted in Missouri, by the hands of the constitution, and let its banner

wave over the heads of none but freemen—men retaining the image impressed upon them by their Creator, and dependent upon none but God and the laws. Then, as our republican States extend, republican principles will go hand in hand with republican practice—the love of liberty with the sense of justice.

Then, sir, the dawn beaming from the constitution, which now illuminates Ohio, Indiana, and Illinois, will spread with increasing brightness to the further West, till, in its brilliant lustre, the dark spot which now rests upon our country shall be forever hid from sight. Industry, arts, commerce, knowledge, will flourish, with plenty and contentment for ages to come, and the loud chorus of universal freedom re-echo, from the Pacific to the Atlantic, the great truths of the Declaration of Independence. Then, too, our brethren of the South, if they sincerely wish it, may scatter their emancipated slaves through this boundless region, and our country, at length, be happily freed forever from the foul stain and curse of slavery. And if (may it be far, very far distant) intestine commotion, civil dissension, division, should happen, we shall not leave our posterity exposed to the combined horrors of a civil and servile war. If any man still hesitate, influenced by some temporary motive of convenience, or ease, or profit, I charge him to think what our fathers have suffered for us, and then to ask his heart if he can be faithless to the obligation he owes to posterity.

THURSDAY, February 10.

The Missouri Bill.

The House went into Committee of the Whole on the Missouri bill.

Mr. SERGEANT occupied nearly three hours in continuation of the argument which he commenced yesterday in support of the Missouri restriction—the whole of which is given in preceding pages. When Mr. S. had concluded—

Mr. P. P. BARBOUR, of Virginia, addressed the committee as follows:

Mr. Chairman: In rising to address you at this time, I feel that I labor under great disadvantages. I am about to embark in the discussion of a subject which has already been greatly exhausted. I am about to do this too at a period of the day when talents of a higher order than I can pretend to would scarcely command attention. These circumstances are of themselves sufficiently discouraging; but the greatest difficulty of my situation consists in the frame of mind in which I fear the committee have been left by the closing remarks of the member from Pennsylvania, (Mr. SERGEANT,) who has just resumed his seat. He made such persuasive appeals to their feelings; he painted in such glowing colors of pathetic eloquence the horrors of slavery in general, and particularly the agonizing scenes of husbands separated from wives, and parents torn from children, that I fear the agitations of an excited sensibility will be unfriendly to the dispassionate investigation and correct decision of this great question.

If, sir, the cause which I have risen to defend, required talents like those which I have just described; talents which, by exciting the sympathies of the heart, cause the hearers to forget the allegiance due to the judgment, then, indeed, I should abandon the unequal, the hopeless contest, in which I should find myself engaged. But the duty which devolves on me is of a different kind: it is to endeavor, as far as I can, to allay the tumult of feeling which has just been excited, and then, in the language of plain truth, to attempt to convince your minds of the error of the gentleman's reasoning.

Let me, then, tell the gentleman that the picture which he has drawn of the suffering incident to domestic slavery in the South, is too strong: that he has shaded it too deeply with the coloring of his own imagination; that, though we do keep the yoke of servitude on the necks of our fellow men, yet our humanity has lightened its pressure; that, though slavery, disguise it as you will, is still a bitter draught, yet the same humanity has lessened the bitterness of this draught, by the infusion into it of many drops of consolation; that, in fine, such has been the continually increasing melioration in the condition of that people amongst us, that they now in general experience the utmost degree of indulgence which is compatible with the relation of master and slave.

These remarks have been called forth by those which were made by the member who preceded me. I now beg leave to call your attention to the very question before us, and I will endeavor to subject it to the severest scrutiny of which I am capable. The bill before us proposes to authorize the people of Missouri to form a constitution and State government. An amendment is offered to the bill, which requires of the proposed State, as a *sine qua non* to its admission into the Union, that it should by a compact, irrevocable without the consent of Congress, make a provision, the effect of which would be to prevent the further introduction of slaves into that State, and to emancipate the children of all those now there. And the question is, whether we have power to impose this condition, which the amendment proposes? The advocates of the amendment contend that we have the power; on our part it is contended that we have not.

The question being thus precisely stated, I will remind gentlemen, at the threshold of the discussion, that they hold the affirmative; that therefore the burden of proof devolves on them. I do not mention this from any apprehension of the weakness of my position; on the contrary, such is my confidence in its strength, that I feel I can with safety assume upon myself the burden of proof, when it belongs to my opponents; but I wish it to be distinctly understood, that I shall consider this as a gratuity on my part, and not an act of duty.

Both the members from Pennsylvania (Mr.

HEMPHILL and Mr. SERGEANT) have relied much upon the ordinance of 1787, the sixth article of which forbids slavery in the Northwestern Territory, as showing the power of the Old Congress in relation to this subject. As this is anterior to the constitution, and as it may somewhat conduce to system to observe a chronological order, I beg leave first to examine the character of that act, and what influence it ought to have upon this question. This celebrated act of the Old Congress has been called a usurpation. Gentlemen have expressed their astonishment at this epithet. I am prepared, from the most unquestionable authority, to prove the charge; and for that purpose I beg leave to read from the thirty-eighth number of the *Federalist* the following extract: "Congress (that is, the Old Congress) have undertaken to do more: they have proceeded to form new States; to erect temporary governments; to appoint officers for them; and to prescribe the conditions on which such States shall be admitted into the Confederacy. All this has been done, and without the least color of constitutional authority."* These, sir, are the words of a member (and, let me add, a distinguished member) of the Federal Convention; one who, after he had contributed to the formation of the constitution, devoted eight years of his life to its actual administration. If then the Old Congress, in the enactment of that ordinance, acted without the least color of constitutional authority, it is obvious that the act must be utterly void, as an act of legislation. Has it force in any other way? Gentlemen, conscious of this vital defect, have in effect conceded it, by resting its authority upon the footing of contract. They say that, after the cession of Virginia, and the enactment of that ordinance, it was submitted to Virginia for her ratification, and that it was ratified. It has already been shown by the Speaker, both from the resolution of Congress and the act of the Virginia Legislature, that it was an alteration in the number and dimensions of the States to be carved out of that territory which was alone submitted, and which therefore was alone intended to be decided. But there are other insuperable objections to this ordinance, considered upon the footing of a contract, having any influence upon the present question.

It has been correctly said, that, to make a valid contract, there must be two parties. Now, though Virginia should be considered as having been competent, yet the Old Congress was not. I have shown you that they had not the least color of constitutional authority over the subject. It follows, then, that they were as little competent to contract as to legislate in relation to it. But, again, sir; supposing the Old Congress to have been a competent contracting party, it is conceded on the other side that, considering the ordinance in the light of a contract, the assent of Virginia was indispensable to its validity. Now, sir, to make that at all analogous to the present case, it is necessary that France should give its assent to the proposed restriction of slavery; because France, having been the power which ceded Louisiana, stands in the same relation to that country as Virginia did to the Northwestern Territory. Surely, then, there can be no weight due to this ordinance as a precedent, when we reflect that it emanated from men having no jurisdiction over the subject-matter to which it relates; and that too at a time anterior to the formation of our constitution, which is the only source of our power, and which, I shall attempt to prove, clearly gives us none such as is contended for.

I will now endeavor to show, beyond all question, that the effect of the proposed amendment is to diminish the rights and powers of the citizens and State of Missouri. When this amendment shall be passed, a citizen of Missouri cannot carry into that State slaves from any portion of the United States; a citizen of Virginia will have the right to carry them into his State. I ask you, sir, if these two citizens be equal? And yet one of the clauses of the constitution which I have referred to, and which, I have shown, applies to the new States, declares that "the citizens of each State shall enjoy all the privileges and immunities of citizens in the several States." It is said, however, that a citizen of Pennsylvania cannot carry a slave

* The phrase, "constitutional authority," as here used by Mr. Madison, (who was the author of this number,) could not apply to the Constitution of the United States, as the ordinance was made before that instrument. It could only refer to the Articles of Confederation, which gave the fundamental law to the Old Congress, and was, in fact, its constitution; and which, certainly, gave to the Congress none of the powers exercised in the enactment of the ordinance; nor was it supposed to grant such powers at the time. The power to acquire and to hold property, and the engagement with the ceding States to dispose of the soil, and to build up political communities upon it, was held to be the authority for the ordinance; nor is there any thing in the Federalist incompatible with that idea. The paragraph, more fully quoted than in the speech of Mr. BARBOUR, is in these words: "A very large proportion of this fund (western land) has already been surrendered by individual States; and it may with reason be expected, that the remaining States will not persist in withholding similar proofs of their equity and generosity. We may calculate, therefore, that a rich and fertile country, of an area equal to the inhabited extent of the United States, will soon become a national stock. Congress have assumed the administration of this stock. They have begun to render it productive. Congress have undertaken to do more: they have proceeded to form new States—to erect temporary governments—to appoint officers for them—and to prescribe the conditions on which such States shall be admitted into the Confederacy. All this has been done—and done without the least color of constitutional authority, yet no blame has been whispered—no alarm has been sounded."—"I mean not, by any thing here said, to throw censure on the measures which have been pursued by Congress. I am sensible they could not have done otherwise." Now, this is very far from charging usurpation; it is justification, and approbation; and corresponds with Mr. Madison's uniform conduct with respect to that ordinance, for which he afterwards voted, as a law of Congress, when it was adopted in 1789.

into that State, and that therefore the citizen of Missouri stands on an equal footing with him. I utterly deny the position. Gentlemen here reason from fact to principle. Although such is the law of Pennsylvania, it is an act of their own Legislature, which they were free to enact or not, and to repeal at their will; not so with Missouri; for, in the first place, we in effect decree it for them, and then declare it to be irrepealable without our consent. Let us leave all the citizens of the United States at liberty, by their own legislation, either to retain or abolish slavery, and then they are all upon an equal footing in point of *right*, as by the constitution they are declared to be; and if they shall exercise that right in different ways, in the several States, and thus put themselves in different situations in point of *fact*, it is an act of their own will, with which we have nothing to do.

It is said, however, in a memorial presented to us, that this principle would lead to monstrous consequences; that if there were but a single State in the Union which tolerated slavery, this principle would not only enable the citizens of that State to carry slaves to a State whose laws forbade it, but would even enable citizens of the latter State to hold them contrary to their own laws. These consequences, if they could follow, would indeed be monstrous, but I think I shall be able to show that the fallacy of reasoning which leads to them is still more so. Our principle does not claim for the citizens of one State greater privileges than citizens of the other States enjoy, but the same only. Now it is obvious, that, if a citizen of Virginia could hold slaves in Pennsylvania, he would enjoy greater privileges than a citizen of that State. This obviates the first part of the objection; the second part is as easily obviated. I have already shown you that the citizens of two States are perfectly equal in point of right, when they are left at liberty to retain or abolish slavery. If the one retain and the other abolish it, it is the exercise of their own will, expressed by their own representatives, which produces the difference in their situations. The true principle is this: As in Virginia slavery is tolerated, a Pennsylvanian is equally with a Virginian entitled to hold a slave there; as in Pennsylvania slavery is not tolerated, the citizens of neither State can hold a slave there; but it is competent for either State to vary its legislative provisions in this respect at its own will.

Let us now see whether the proposed amendment does not diminish the powers of Missouri as a State. The standard by which to ascertain the powers of a State is furnished, first, by the grant of legislative power to Congress; secondly, by the prohibitions upon the powers of the States. All other powers not included in this grant, or in these prohibitions, remain with the States. Such is the explicit declaration of the 10th article of the amendments already quoted. Now, sir, no man has pretended that the power is granted to the Federal Government to abolish slavery, or that it is prohibited to the States to retain it. According to the positive provision of the 10th amendment, therefore, it is retained; and yet gentlemen are now about to exercise this power as if it were granted to us. Gentlemen will at once acknowledge that they would not attempt this in relation to the old States; and why, sir? Do you answer that all powers not delegated nor prohibited are reserved to them? Then say I, you yourselves admit that the same article which makes the reservation of powers in favor of the old States applies to the new, and consequently it cannot be so construed as to justify, in relation to the new States, what it forbids towards the old. If, then, the prohibitions and the reservations of power equally apply to the new States; if, as I have shown, it is not competent for us to enlarge the powers of the States, either by surrendering any of our legislative powers, or by removing any of the prohibitions, it follows, necessarily, that we cannot diminish them by breaking in upon the fund which they have reserved. The same constitution which contains the grant to us, and the prohibition upon the States, secures to them the enjoyment of the remainder.

An attempt has been made, however, to distinguish this subject from the general rule, arising out of the constitution, upon this ground: that slavery was a question adjusted by compromise, and that therefore no States but those which were the original parties to the constitution can claim the benefit of that compromise. I think it will be found, sir, that this position is just as untenable as the various others from which gentlemen have, I trust, been driven. There were other subjects besides slavery adjusted by compromise; I will mention the most prominent one—that of an equal representation in the Senate. This is incontestably proven by the circumstance that, in the clause providing for amendments, it is declared that the constitution shall not even be so amended as to deprive any State of its equal suffrage in the Senate without its own consent; this is the only provision which is forever put beyond the reach of amendment, in the ordinary mode. Now, sir, this was emphatically the work of a compromise in a vital part of the constitution; the principle of gentlemen, if true, would lead to the conclusion that the new States were not entitled to the benefit of this provision, because they were not parties to the compromise; yet no gentleman will maintain this position; and if he will not, he must give up the other upon the subject of slavery. Gentlemen complain of what they consider injustice, in the Southern representation being increased by their slaves; if they could even show this, yet they could not in this way attempt to alter it. But, upon their own grounds, I am prepared to show that the hardship is on our side; for this purpose I beg leave to introduce to your attention Virginia and Indiana; the whole representation of Virginia in this House is twenty-three, of which

number she is entitled to sixteen from her free population, and to seven from her slaves; Indiana, in this House, is entitled to one member; Virginia, then, has a right to sixteen times as many members here as Indiana, even from her free population; but in the Senate, Indiana, by a provision of the constitution, irrevocable without her own consent, is equal to Virginia. It thus appears that, whilst in one House, Virginia, by her slaves, receives an increase of less than one-half her representation, Indiana, in the other, has her relative weight multiplied fifteen times, and that, too, as I have shown, by an irrepealable provision of the constitution, without her own consent. Whilst Virginia is liable, by an amendment of the constitution even against her consent, to be deprived of that part of her representation which she derives from her slaves. I will say nothing about our being taxed on account of our slaves, in the same proportion in which they increase our representation, as that has been already presented to you.

But, say gentlemen, the powers which the constitution does not give us, we can get from the several States by compact. They say that both the United States and the State of Missouri are competent to make a contract; and that if the one party make a proposition, and the other accept it, this is obligatory on them both. Even if this principle were true, an abundant answer is furnished by an argument which I believe has been already urged, and which I shall therefore only state, without pursuing it; it is that, by the treaty, which was a compact prior in point of time, and paramount in point of obligation, the people of Missouri have acquired certain rights, that therefore it is not competent for you merely because you are the stronger, to say that you will not comply with its stipulations unless they will agree to another compact, the effect of which will be to deprive them of one of the rights which I shall attempt hereafter to show, when I come to speak of the treaty more at large, it gave them.

I ask, then, if this amendment prevail, will Missouri govern herself by her own authority and laws, in relation to the subject of slavery? On the contrary, do we not, by the amendment, say to her, that she shall in the first instance submit to our will, contrary to her own, and that not by an act of ordinary legislation, but by one which we require to be made irrevocable without our consent? If it be said that ours is not a foreign interference, I answer in the language which I have formerly used, that, as to any subject over which a power is not given to the General Government—and I trust I have proven this is one of that kind—that Government is a foreign one to the States, as much as any Government in Europe. But it is asked, whether it is essential to sovereignty that a State should have slavery in its bosom? I answer no, sir; but it is of the very essence of sovereignty that a State should have the power of deciding for itself whether it will or will not tolerate slavery. Gentlemen pressed by this reasoning retreat to another ground; they say that slavery is a moral wrong, and as such cannot be the subject of sovereignty; I answer that it is essential to sovereignty, and the highest act of its exercise, to decide what is embraced within its limits, and that the very act of one Government attempting to decide this question for another is a glaring violation of the sovereignty of that other; I answer further, that sovereignty, in relation to the internal concerns of a State, has no limits but the discretion and moral sense of the State itself, unless it relate to a subject the power over which has been specially delegated, and it has been the purpose of my whole argument to prove that this has not been so delegated. Suppose that a State, like ancient Sparta, should by its laws even sanction the barbarous practice of putting their Helots to death; suppose that it was so lost to the moral sense as to permit the most enormous crimes against the laws of morality or religion to escape with impunity; have we the power to interfere in these matters of municipal legislation, unless it be in relation to a subject over which the constitution gives us power? I must be pardoned for repeating, that we have no more than one of the Governments of Europe.

But in whatever light we look upon the subject of slavery, whether as a moral wrong or not, whether as a rightful subject-matter of sovereign power or not, we know that it existed in many of the old States at the formation of the constitution; that it has continued to exist; that there are several clauses in the constitution which have direct reference to it, giving protection to the master in reclaiming the services of his slave, and conferring political power, and creating a liability to taxation, with an acknowledged view to this kind of population; this is admitted by all to be the case, as it respects the old States; I have shown, again and again, that the new States and their citizens have all the rights, privileges, immunities, and powers of the old States. If, then, it be a right, or, if you please, a wrong, in the old States and their citizens, to hold slaves beyond our control, then the new States and their citizens claim the same right, or the same wrong, call it by what name you please.

It has been said by the two gentlemen from Pennsylvania, (Messrs. HEMPHILL and SERGEANT,) that the States had the right to admit new States upon conditions to be prescribed by themselves; and it has been asked, what has become of that power? If they have given to Congress the simple power of admission, is the other part of the power annihilated, or does it yet remain with the States? To these questions I answer, without difficulty, that the States did possess the power of admitting upon condition; that this part of their power is neither annihilated, nor does it remain with them; that they have given to Congress the power to admit, and that they have declared

the terms and conditions of that admission in the various provisions of the constitution.

Sir, the conclusion of the whole matter is this: The States which were the original parties to the constitution, have given to Congress the power of extending indefinitely the territory over which their dominion is to be exercised, by the admission of new States; but they have not given to Congress the right to increase their capital stock of power, either by taking, by their own will or by the joint will of themselves and any State or States, any attribute of their sovereignty; the first would be an injury to the individual State from which it was taken, the second would be an injury to all the States which compose the Confederacy. No, sir, the sum of the power of Congress is fixed by the terms of the constitution in a manner irrevocable, except in the mode prescribed for amendment; the States have not intrusted to any body of men on earth a power which might enable them to disturb the political balance, which is adjusted with so much care in the constitution; they have not left it to Congress to make the new States either greater or smaller than themselves, but have made their own political dimensions, as marked out in the constitution, the precise standard for the formation of those States which should come into their family by adoption.

The next clause from which the right to impose this restriction is derived, is that which gives us power to make all needful rules and regulations respecting the territory of the United States. I do not propose to go into the general question, how far our power extends over the territories, as such: that question will hereafter be distinctly presented to our consideration. Deferring, therefore, the general inquiry till that occasion, I beg leave to remind the committee that, as it respects the now Territory of Missouri, we have, by one of our own regulations, given it a legislative body; that we have extended to that body the whole power of legislation, subject only to the limitation that their laws shall not be inconsistent with the constitution and laws of the United States; a limitation to which every State in the Union is equally subject: the question of slavery is one of a legislative character; it therefore already belongs to them to decide it by our own grant. Let me ask gentlemen, can a grant of political power be revoked at the will of those who grant it? Would it not excite some surprise in this hall, to talk of revoking a common charter of incorporation, such as that of the Bank of the United States, unless for some cause of forfeiture of that charter? I do not mean now to say what the extent of the legislative power is, in relation to that subject; some modern writers of merit seem to countenance the idea that there are strong cases, in which it would be a legitimate exercise of power; but of this I am sure, that this House would not undertake to revoke the most common charter which they had granted, unless for some act of forfeiture; and yet it seems to be thought by many an act quite of ordinary legislation, to revoke the most exalted charter which can be created—that of the grant of legislative power. If you can take from a Territory a power of this kind, when once granted, what would hinder you from repealing the very act by which you would admit the same Territory into the Union? They are both grants of political power, differing only in degree. But, sir, let this question be as it may concerning the Territories, all further inquiry into which I shall defer till that subject comes up, it has no application to the present case, which is the admission of a State. Whatever is our power over the Territories, it is acknowledged that it co-exists with the Territorial condition, and that when that ceases the power over them, as such, ceases also. It is acknowledged that we could not impose this condition after the State is admitted; and yet it is contended, that it may be done just before its admission, by virtue of a Territorial power, which must necessarily exist at the moment when the admission takes place; in a word, it is argued that, by virtue of a power confessedly temporary, we can impose a condition, in its character perpetual, if we so will. I cannot show the glaring impropriety of this position in so palpable a mode as by likening it to a case of municipal law. Let us put the case of guardian and ward. A guardian has power to make leases of his ward's land, during his minority, and to expire with it; the moment after his ward reaches majority he has no power over the estate; and yet, sir, upon the principle now contended for, he might enter into a contract the day before the minority ceased, which would bind the ward and his heirs forever. If such a proposition as this were stated in the judicial hall, in another part of this Capitol, the gentleman would be told that it could not even be received for discussion.

The next clause in the constitution, from which the power to impose this restriction is attempted to be derived, is that by which it is declared "that migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited prior to the year 1808." Under this it is contended that slaves may be prevented from passing from one State to another. It has already been properly said, that if that were the correct construction, it ought, being legislative power, to be executed by an act of Congress, having equal effect upon all the States, and not by an irrevocable compact, operating on one only. But, sir, independently of this objection, there are two other answers to the argument attempted to be derived from this clause, which I consider conclusive. The first is, that the word migration implies to *freemen*, not *slaves*. The origin and received acceptation of the term prove this. I think I can show it, too, by reference to the probable object of the clause, and the conflicting interests of different sections of the country which it attempted to reconcile.

Let it be recollected that the constitution entitled the slaveholding States to a representation founded, in a certain proportion, upon their slave population. Now, sir, I think it fair to conclude, as it was agreed that Congress should not have the power to prohibit the importation of slaves prior to 1808, by which importation the representation of the slaveholding States would be increased, that the jealousy of the non-slaveholding States required as an offset to this, that the migration of free persons, by which their representation would be increased, should not be prohibited till the same period. But, sir, there is an answer, arising from the phraseology of the clause, which seems to me to put an end to the question; the words are, "The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited." Now, this word "*admit*," proves incontestably that the word migration, whether it relates to free persons or slaves, looks to persons coming from abroad; for, if they were already in the States, they could not be admitted. Sir, it would be a solecism in language to talk of admitting a man into a house who was already in it.

But, sir, the strongest objection lies yet behind. The law which I have supposed, upon the model of this amendment, emancipates the children of all the slaves now in Maryland. Is this, too, a regulation of commerce? It is a contradiction in terms, to give it such a name. This last part of the bill, sir, is most alarming in its consequences, for it goes directly to the emancipation of slavery throughout the whole United States, after the present generation shall become extinct; that is, in the life of one man —for, whilst the candles are all burning though millions may be embraced, yet the life of the longest liver terminates the period. And have you the power to emancipate the children of acknowledged slaves? Yes, says one gentleman from Pennsylvania, (Mr. HEMPHILL,) for he asked, can a man have a vested interest in an unborn human being? And he answered, no. If this be the doctrine, sir, though that gentleman did not apply it, and I believe did not intend to apply it to the old States, I repeat again, that it proclaims universal emancipation, after failure of the present generation of slaves. Sir, it is of no importance that the present Congress do not apply it; we are but actors who fret our busy hour upon the stage, and then pass away; others will come to act their parts, and these principles may then be put into practical execution, in their utmost extent. I will not detain the committee to prove that a property in the parent implies property in the progeny. The maxim "*Partus sequitur ventrem*" is as old as the civil law; it is founded upon the immutable principle, that wherever I have property in the capital stock, I have the same property in its products. He who owns the land owns all the fruit which it produces. If, then, you may admit my property in the parent, you cannot deny it in the child. If, indeed, you deny my right to a vested interest in an unborn human being, you may, perhaps, go one step further, and deny the same interest in those who now exist. The argument is as strong in one case as the other. Assume but this principle, and then you need not wait for futurity to do this great work of emancipation. No, sir, you may say at once to every bondman in the United States, you are free.

I have now, sir, finished my view of this question. I believe, upon my conscience, that the proposed restriction is a violation of the constitution; I trust I have proven it; if I have, or if there be even serious doubt, I conjure the committee to pause before they take the step proposed; sir, it was long a desideratum in politics to devise a Government like ours, which should, by the union of many sovereign States, each retaining its sovereignty for municipal purposes, combine the strength of a monarchy with the freedom of a republic. With us it is "in the full tide of successful experiment." Let us not take any course calculated to arrest its success; such, I fear, will be the unhappy tendency of the present measure. Let it not be supposed that I come here the apostle of disunion; no, sir, I look upon the Union of these States as the ark of our political safety; if that be lost, we may bid farewell, a long farewell, to all our pleasing hopes and fond anticipations of future greatness and glory. They will be as the illusions of a deceitful dream. But, whilst I deprecate disunion as the most tremendous evil, I cannot shut my eyes against the light of experience; I cannot turn a deaf ear to the warning voice of history; from these we learn that harmony is the spirit which can alone animate and sustain a confederate republic. Whilst this spirit exists, it is displayed in acts of legislation reciprocally beneficent to every member of the confederacy, and these become new ligaments to bind them together in the bonds of brotherhood; this spirit is not all at once extinguished, nor are the bonds of union suddenly burst asunder; but when, instead of this beneficent spirit of legislation which I have described, a different course prevails, this spirit of harmony gives way successively to jealousy, distrust, and, finally, discord; let but this last spring up amongst us, you may consider the days of the Republic as numbered, and that it is fast hastening to its dissolution.

When that sad catastrophe shall befall us, this noble Confederacy, which, in its undivided state, could stand against a world in arms, will be broken, if not into its constituent parts, into some minor confederacies, the victims of foreign intrigue and of their own border hatred. Where, then, will be your commerce which covers every sea? Where your army and navy, the means of your defence, the instruments of your glory? They will be remembered only to make the contrast with your then situation more painful. What will become, then, of this boundless tract of western land, the subject of

the present contest, which has poured, and would continue to pour, such rich streams of wealth into your treasury? It may become the theatre on which the title to itself may be decided, not by Congressional debate, not by construction of treaties or constitutions, but by that force which always begins where constitutions end. I conjure you then, beware, lest, by this measure, you excite the discontent of one-half of the Union, by legislating injuriously to them, upon a subject in which they have so deep a stake of interest, and you have none in point of property; take care that you do not awaken the painful reflection, that the federal arm is strong only to destroy. I hope and trust that the wisdom of our councils may be such as to avert these evils; but he knows little of the human character, who does not fear that consequences like these may follow, if the hand from which the greatest good is looked for, be the one which deals out the deepest injury.

God grant that, in deciding this question, we may bear in mind this excellent motto, "United we stand, divided we fall."

SATURDAY, February 12.

The Missouri Bill.

The House then resolved itself into a Committee of the Whole on this bill. The proposed restriction being still under consideration—

Mr. PINDALL, of Virginia, said, gentlemen who insisted to impose this restriction on Missouri had not asserted the existence of any supreme, fundamental, or national law of this continent which would of itself inhibit slavery in the new States. No one had contended that the Constitution of the United States contained any precept precluding the admission of slave-holding States, but the position so eagerly urged was, that, although the Federal Constitution did not inhibit slavery, yet it vested in Congress such powers as enabled that body to exercise the discretion of requiring the insertion of such a provision in the constitution of a new State. The question, continued Mr. P., then is, not whether there be a fundamental principle or supreme law inhibiting slavery, but whether there is in this country a tribunal or legislative council having a discretion superior to the power of the people when assembled in convention. That this is the posture in which the question presents itself, is evident, for that portion of the State constitution which you now propose to make for Missouri, has not been assented to, and probably would not be assented to, by the people of Missouri, nor have the people of the United States assented to the proposal, or ever had an opportunity of listening to it in convention.

The Federal Convention is a national, or rather international compact, in which the relations of sovereignty between the respective States and between those States and the General Government are prescribed, adjusted, and limited. If gentlemen object to this description of the constitution, they are requested to furnish their own definition of the instrument, which I trust will afford the conclusion which I am in quest of. Yielding me this description of the constitution, it will follow that a change in the relations thus established and defined between the States and this Government, necessarily involves an alteration of the Federal Constitution. The positive and express requisition on the part of Congress, of a particular provision in the constitution of Missouri, to remain irrevocable by that State and the people thereof, unless by the concurrence of this Government, must seek an alteration or amendment of the Federal Constitution, inasmuch as it would, by the introduction of a new fundamental principle, alter and vary those relations between the States, and between the States and this Government, which had been previously adjusted and ascertained by the great federal compact; and that such alteration cannot have place merely by an act of Congress, is manifested by the constitution, which has required a more difficult process of amendment. Gentlemen who support this restriction derive their title to interfere, from the power to admit new States on discretionary conditions; and the Federal Constitution being here again silent, they deduce their authority to annex such conditions, through the avenue of inferences from some other delegated power. They have been reminded that it was illicit to infer any power which, when assumed, would remain destitute of limitations, as the whole design of the instrument might, by such means, be subverted, and they have sought to meet the suggestion by announcing supposed boundaries to their favorite power. These boundaries, however, are the mere dictates of ordinary prudence, and to be supported only by the discretion and good sense of Congress; boundaries equally applicable to the powers of unlimited discretion; as different in their exercise as the moral sentiments or affections of men differ, and the property as well of absolute monarchies as of republics.

The Convention of 1787 was not satisfied to limit the political faculties of this Government to dimensions which our own prudence should suggest, but afforded limitations of equal force and authenticity with the delegation of powers, and, as it has professed so to do in all cases, I can admit of no inference of power in any case, unless the just extension and proportion of that power can be shown also from the constitution. I must say to a gentleman from Pennsylvania, and others, who have dwelt so copiously on the wisdom of the Federal Legislature, and the safety of the country in relying on its discretion, that I do not partake in their confidence; but, on the contrary, my diffidence, nay, distrust, increases in proportion to the eager solicitude of gentlemen from one-half of the Union, to legislate on subjects in which neither themselves nor their constituents have any interest or concern, and on which the country must of course be destitute of the common pledges for the rectitude of our deliberation.

Gentlemen have found it necessary to impose a heavy emphasis on the power of Congress to admit new States into the Union, which, implying the power to refuse such admission, clothes that body, it is said, with an authority to prescribe the condition on which a State shall be admitted. This, however, is an error which, notwithstanding its plausible aspect, can be readily refuted by comparing this grant of authority with the structure of the Federal Government; preparatory to which it is scarcely necessary to remark, that the faculties of Congress, arising from the constitution, are so governed by the nature of the objects on which they are to operate, that the rules of interpretation as respects one of our grants of power, may have no application in relation to another; for, whilst under one grant of power we are launched into a wide field of legislation, bridled only by self-prudence, another delegation (such, for instance, as we exercise in counting the votes of the Presidential electoral college) confines us to the narrow path of duty usually confided to mere ministerial agents. If our legislative acts may, in some cases, be made to depend for their efficacy on arbitrary conditions, it will not from hence follow that all the capacities of the constitution could be thus handled. We may declare war, or impose taxes, accompanied with such modifications as we please; and Government, in making a compact with a foreign power, may stipulate its conditions and terms, without which, indeed, it would be no compact; but, in admitting new States into the Union, we have no authority, nor is it necessary we should have power to stipulate conditions; for, the people of the United States, whose servants we are, and in whose right we act, have themselves stipulated the conditions and terms of the compact; for, in all the articles of the Federal Constitution are found a full and fair designation of the rights acquired and obligations incurred by the adopted State. That instrument or treaty distinctly expresses the mutual advantages and duties which are to subsist between the adopted State and the old States and the Federal Government. The people of the old States have made a contract of limited partnership; they have also conferred on us a special power to admit (in our discretion, if you please) additional partners into the firm under the old compact, but have not authorized us to change the contract itself, or substitute a new one in its place.

I shall not insist that Congress can prescribe no sort of condition, under any circumstances whatever, on the admission of a new State, but ground myself on positions which entitle me to warn my adversaries that, even if they show a right to propose or require one condition, they will not have established their title to impose conditions of a different import. If gentlemen will assert our right to require the previous payment of a sum of money by Missouri, as the price of her admission, in like manner as a bonus was paid by the Bank of the United States, I might yield to the claim; by which, however, they would gain nothing in this contest, for, after Missouri would pay the money and be inducted into the Union, she would immediately require all the political rights claimed by any other State. Impose (if you please) conditions without which Missouri shall not be admitted, but you shall not impose conditions which would deprive her, after her admission, of portions of her sovereignty, which the Federal Constitution guaranties or tolerates, nor shall you, in any wise, change those relations of sovereignty which the constitution supposes ought to exist between the States and this Government, as you would thereby, in effect, substitute a new constitution, in lieu of that already sanctioned by the people.

The advocates of the restriction have quoted the compact between Virginia and Kentucky, when the latter was erected into a State, which they suppose affords an instance of the capacity of a State to alienate a portion of its supreme power. A recurrence to that compact will manifest that nothing of the kind was effected or attempted. The stipulations either relate to objects which impose no municipal restraints on the supremacy of Kentucky, or are merely declaratory of a reciprocity of rights and duties which would have had place, without such declaration, either by force of the law of nations or the Federal Constitution, but were inserted from abundant caution. Thus, the lands of non-residents of Kentucky were not to be taxed higher than the lands of residents; a result which the Constitution of the United States had already virtually secured, &c. But, if I am wrong in this, I pray gentlemen to put their own interpretation on the compact between Virginia and Kentucky, and show me the aid they expect to derive from it. Let me, then, admit the compact stipulates to transfer or impair the legislative power of one of these States. This transfer, or subduction, either deranges some of the adjustments of power previously recognized by the Federal Constitution, or it does not. If its tendency be to derange the distribution of powers made by the Federal Constitution, the compact thus far, will be void. But if, on the other hand, the compact has no manner of collision with the Federal Constitution, it will be valid, and take its full effect, and be altogether severed out of the residuary powers of these States, which have not been surrendered to this Government. I would now submit this question: It being admitted that the States have a capacity, growing out of the residuary powers, whether it will hence follow that the Federal Government can, out of its delegated powers, do the same thing? I know of no middle terms to serve an affirmative conclusion.

The same gentleman infers our power to establish the restriction from the capacity which Congress possesses for its execution. Congress, he says, may agree with the people of Missouri, and hence they will assent to impose the

restriction themselves. And, if they will not otherwise assent, Congress may thwart their wishes by making the Missouri River the boundary between contemplated States, and so divide or subdivide the inhabitants as will not only impose inconvenient dimensions on the new States, but cause a postponement of the time of their admission, until the population of each of such divisions may be sufficiently numerous to form a State. I acknowledge that powerful means are at the disposal of Congress, which might produce a strong impression on the fears of those who oppose our designs. Indeed, Congress, having a legislative authority over the present Territory, could adopt rigid laws and regulations, to waste the estates and persecute the persons of the obdurate and refractory; nay, we could repeal the militia system of the Territory, withdraw the frontier posts and troops, inhibit the passage of succors across the Mississippi, and thereby encourage the Osage, and other Indians, to a war which would probably bring the Missourians to a more mature consideration of the expediency of adopting our projects. These means, which partake of the character of the measure proposed by the gentleman from Pennsylvania, of splitting their Territory by inconvenient partition lines, manifest the physical, not the moral power of Congress; after the manner of the highwayman, who demonstrates to the satisfaction of his victim, his physical, but not his moral or just title to the money he designs to acquire; and much in the way of the King who prevailed with the Jewish banker to loan him his money, by exercising over him the power (appertaining to sovereignty, too) of drawing a tooth each day, until the contract of loan was ratified.

If Congress has the power to impose the restriction, it must first be derived from the legislative powers of the constitution; or, secondly, it must be acquired by the capacity of this Government to make a compact for that object with Missouri. Those who assent to the first, or legislative power, have relied greatly on the clause which inhibits Congress from preventing the migration or importation of such persons as the States may think proper to admit previous to the year 1818, which they suppose implies a right in Congress to prohibit the migration from State to State after that epoch. Before I submit my own views in relation to this clause of the constitution, permit me to make a remark in corroboration of the opinions of the gentleman from Georgia, (Mr. REID,) and other non-restrictionists, who contend that the word *migration* was inserted in the constitution from abundant caution, lest the word *importation* should not imply a full and effectual authority sought to be invested in Congress to prohibit the bringing in slaves from foreign countries, under all circumstances.

Every act of Congress, passed since the adoption of the Government, to discourage or prohibit the foreign slave trade, has used terms of prohibition additional to, and rather broader than, simple *importation;* in proof of which I refer you to the acts of 22d March, 1794; 10th May, 1800; 28th February, 1803; 2d March, 1807; and some amendatory laws, of later dates. Without pretending to say whether a mere authority to inhibit the importation of slaves would have comprehended the prohibition of all the various modes by which the introduction of slaves might be effected, I would merely remark that there can be nothing strange in believing that the Convention, in its solicitude to prohibit the foreign trade, might have deemed it prudent to employ the word *migration* in addition to *importation;* as successive legislative bodies, who certainly only intended to prohibit the foreign trade, have adopted a similar method of expression. And, although our construction would, on a critical scrutiny, convict this portion of the constitution of tautology, that of itself would not invalidate the interpretation; for the convention may have deemed it better to risk such imputation than a defeat or evasion of the legislative powers of Congress. Indeed, the constitution abounds in tautological terms, instances of which are seen in the declarations that no State shall lay any imposts or duties on imports; and that no State shall make any agreement or compact, &c.

I will beg leave to submit the view of this migration or importation clause, which has prevailed in my mind. That this clause, which only prohibits Congress from the exercise of a branch of its power until 1808, does not in itself confer any power on Congress, is yielded by all; and, on the other hand, I admit that the temporary prohibition affords evidence that the constitution contains a Congressional power after 1808, correspondent to the prohibition. The admission I make is of the *existence* of such power after 1808; but the *extent* and more precise limitations of that power are different considerations, and must be sought after in some other place; for, if you would make the exceptions or temporary prohibitions of the constitution not only presumptions of the *existence*, but evidence of the *extent*, of correspondent powers, where such exception fails to operate, the constitution would be totally perverted, and the whole attitude of the Government become inverted. Would you infer from the prohibition to pass *ex post facto* laws, that Congress can pass prospective laws in all cases whatsoever; or from the prohibition to pass bills of attainder, a power to pass all laws of a general nature to punish crimes; or from the prohibition of trial for capital offences, except by indictment, that this Government can, by indictment, punish all manner of offences? Or would you not rather consider these inhibitions as evidence of the mere *existence* of correspondent powers, for the *extent* of which it was necessary to refer to some other parts of the constitution, in which the powers were granted? The Convention of New York, in adopt-

ing the Federal Constitution, accompanied the ratification with some express declarations; one of which was, "that those clauses in the said constitution which declare that Congress shall not have or exercise certain powers, do not imply that Congress is entitled to any powers not given by the said constitution; but such clauses are to be construed either as exceptions to certain specified powers, or as inserted merely for greater caution." Similar declarations were made by the conventions of other States. I am, therefore, authorized to require gentlemen who pretend that the migration and importation clause is not satisfied by reference to the power of Congress over the foreign slave trade, to produce some other portion of the constitution conferring a more extensive authority.

It is proposed to negotiate a compact or treaty with Missouri to insert an irrevocable inhibition against slavery in her constitution. This House is then made to partake with the President and Senate in the treaty-making power. Be it so. The convention of New York, which ratified the Federal Constitution, declared *that no treaty should be construed so to operate as to alter the constitution of any State;* but the delegation from that State seem now to perceive that a treaty which can effect no sort of alteration of an old constitution may make a new one. The proposed stipulation with Missouri would dislocate the tenth article of the amendments to the constitution, which declares that the powers not delegated to the United States, nor prohibited by it to the States, are reserved to the States respectively, or to the people. This power in relation to domestic slavery would not remain or be reserved to the State or people of Missouri, but would be withheld from them by this Government. As the restriction or compact with Missouri would grow out of an act of Congress, and as all acts of Congress are objects of cognizance by the Federal Judiciary, this Government, through its Executive and Judiciary departments, would succeed to a sort of anomalous and invidious authority in the domestic concerns of the new State, unlike what is found in all the other States, and contrary to any conception which could have been entertained by the framers of the Confederacy. The authors of the Federalist, in expounding the constitution to the American people, and persuading them to its ratification, urged that no apprehension should be entertained of tyranny, or abuse of power, from the General Government, inasmuch as the powers reserved to the States over the lives, liberty, and property of the people, would insure to the States a weight and influence sufficient to check, and frequently control the operations of the Federal Government. But what becomes of the balances of public security, (I ask you,) if Congress be permitted to obliterate the great lines of demarcation established by the constitution, by buying in first one, and then another, of the reserved rights of the States? By such means a few years hence might present us a confederacy between this Government and the new Western States, very different in its character and import from the constitution of the old thirteen States, and probably dangerous to their safety, as it would comprehend interests in which they could have no participation.

The treaty of the 30th of April, 1803, by which France ceded Louisiana to the United States, imposes an express obligation on this Government to admit the inhabitants of the ceded country into the Federal Union as soon as possible. The gentleman from New York (Mr. TAYLOR) has surprised us with an avowal that the Government was not, and never would be, bound to admit Missouri into the Union, as a State, and that the requisition of the treaty would be discharged by merely suffering that country to remain appended by a Territorial government. The terms of the treaty are, however, too palpable to admit of hesitation; they provide both for the protection of the country, as a territory, and for the admission of the same afterwards, as a State or States; the third article providing that the inhabitants shall be incorporated in the union of the United States, and admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities, of citizens of the United States, and, in the mean time, they shall be protected, &c. It being not an act of Congress, but the Federal Constitution, which is to govern the admission, and it only providing for the admission of new States, the admission as a State or States must have been intended. Permit me to ask the gentleman what is meant by the protection to be afforded in the mean time, or what that mean time is?

We have long been convinced that ours is the only free country on earth; that the colonies adjacent to us are the objects of tyranny, cruelty, and oppression, at all times willing to become ours by revolt or otherwise, and that the advantage of such connection is incalculable to them. Let us, however, beware of the injustice to which we may be tempted by national pride. It is certain that Louisiana has been aggrandized by her connection with the United States, but a review of her condition, previous to her change of masters, may occasion a doubt whether the old inhabitants, on whose behalf the stipulations of the treaty were inserted, were improved in their circumstances by the cession. The Spanish Government afforded the inhabitants their land, gratuitously. By the ordinance of 1793, the inhabitants of Louisiana and the Floridas were admitted to a free commerce with Europe and America. No exception as to the articles sent or to be received. Tobacco and all other articles, the introduction of which into Spain had been prohibited from other places, were allowed to be taken from these provinces. The importation of foreign rice into Spain was prohibited for the avowed purpose of encouraging its growth in Louisiana

and the Floridas; all articles exported from Spain to these provinces were free of duty, and a drawback of the duties which had been paid on foreign articles was allowed. The articles exported from those provinces to Spain were free of duty, whether consumed in Spain, or re-exported to foreign countries. The same ordinance had also provided that a preference should be given to all the productions of Louisiana and the Floridas, by prohibiting their importation from foreign countries, whenever those provinces should produce sufficient quantities for the consumption of Spain. The governments of these provinces were mild and provident, having been guided by a policy which afforded a security against Indian depredation, which had not always been the good fortune of our frontiers. I think, if this people were indeed miserable, their sufferings were not imputable to their old Government. We have divorced them from their ancient associations, and given birth and encouragement in that country to new objects of emulation, by engaging to couple their destiny (in the language of Governor Claiborne) with our own unexampled prosperity, and the world must now witness with what sincerity or ill faith we are to meet the demand for a performance of our compact.

MONDAY, February 14.

The Missouri Bill.

Mr. PINCKNEY, of South Carolina, addressed the Chair as follows:

Mr. Chairman: It was not my intention at first, and it is not now my wish, to rise on this important question: one that has been so much and so ably discussed in both branches of Congress: one that has been the object of so many meetings of the people of the different States, and of so many resolutions of the legislatures, and instructions to their members: but I am so particularly circumstanced, that it is impossible to avoid it. Coming from one of the most important of the Southern States, whose interests are deeply involved, and representing here a city and district which, I believe, export more of our native products than any other in the Union; having been also a member of the Old Congress, some important acts of which are brought into question on this occasion, and, above all, being the only member of the General Convention which formed the Constitution of the United States, now on this floor, and on whose acts rests the great question in controversy, how far you are or are not authorized to adopt this measure, it will, from all these circumstances, be seen that it is impossible for me to avoid requesting your permission to state some observations in support of the vote I shall give on a question, certainly the most important that can come before Congress: one, to say the least of it, on which may depend, not only the peace, the happiness, and the best interests, but, not improbably, the existence of that Union which has been, since its formation, the admiration of the world, and the pride, the glory, and the boast, of every American bosom that beats within it.

In performing this solemn duty, I trust I shall do it with that deference to the opinions of others which it is always my duty to show on this respectable floor, and that I shall be as short as the nature of the subject will permit, and completely moderate. Indeed, in questions of this importance, moderation appears to me to be indispensable to the discovery of truth. I, therefore, lament extremely that so much warmth has been unnecessarily excited, and shall, in the remarks I may make, studiously avoid, what I conceive the decorum of debate ought to enjoin upon every member.

At the time I left, or sailed, from the city I here represent, scarcely a word was said of the Missouri question; no man there ever supposed that one of such magnitude was before you. I therefore, have, since the serious aspect this subject has assumed, received numerous inquiries on it, and wishes to know my opinion as to the extent and consequences of it. I have candidly replied, that, so far as respects the regaining an ascendency on both the floors of Congress; of regaining the possession of the honors and offices of our Government; and of, through this measure, laying the foundation of forever securing their ascendency, and the powers of the Government, the Eastern and Northern States had a high and deep interest. That, so far as respects the retaining the honors and offices and the powers of the Government, and the preventing the establishment of principles to interfere with them, the Southern and Western States had equal interest with the Northern. But, that, when we consider to what lengths the right of Congress to touch the question of slavery at all might reach, it became one, indeed, of tremendous import.

Among the reasons which have induced me to rise, one is to express my surprise. Surprise, did I say? I ought rather to have said, my extreme astonishment, at the assertion I heard made on both floors of Congress, that, in forming the Constitution of the United States, and particularly that part of it which respects the representation on this floor, the Northern and Eastern States, or, as they are now called, the non-slaveholding States, have made a great concession to the Southern, in granting them a representation of three-fifths of their slaves; that they saw the concession was a very great and important one at the time, but that they had no idea it would so soon have proved itself of such consequence; that it would so soon have proved itself to be by far the most important concession that had been made. They say, that it was wrung from them by their affection to the Union, and their wish to preserve it from dissolution or disunion; that they had, for a long time, lamented they had made it; and that, if it was to do over, no earthly consideration should again tempt them to agree to so unequal

and so ruinous a compromise. By this, I suppose, Mr. Chairman, is meant, that they could have had no idea that the Western and Southern States would have grown with the rapidity they have, and filled so many of the seats in this House; in other words, that they would so soon have torn the sceptre from the East.

It was, sir, for the purpose of correcting this great and unpardonable error; unpardonable, because it is a wilful one, and the error of it is well known to the ablest of those who make it; of denying the assertion, and proving that the contrary is the fact, and that the concession, on that occasion, was from the Southern and the Western States, that, among others, I have risen.

It is of the greatest consequence that the proof I am about to give should be laid before this nation; for, as the inequality of representation is the great ground on which the Northern and Eastern States have always, and now more particularly and forcibly than ever, raised all their complaints on this subject, if I can show and prove that they have not even a shadow of right to make pretences or complaints; that they are as fully represented as they ought to be; while we, the Southern members, are unjustly deprived of any representation for a large and important part of our population, more valuable to the Union, as can be shown, than an equal number of inhabitants in the Northern and Eastern States can, from their situation, climate, and productions, possibly be. If I can prove this, I think I shall be able to show most clearly the true motives which have given rise to this measure; to strip the thin, the cobweb veil from it, as well as the pretended ones of religion, humanity, and love of liberty; and to show, to use the soft terms the decorum of debate oblige me to use, the extreme want of modesty in those who are already as fully represented here as they can be, to go the great lengths they do in endeavoring, by every effort in their power, public and private, to take from the Southern and Western States, which are already so greatly and unjustly deprived of an important part of the representation, a still greater share; to endeavor to establish the first precedent, which extreme rashness and temerity have ever presumed, that Congress has a right to touch the question and legislate on slavery; thereby shaking the property in them, in the Southern and Western States, to its very foundation, and making an attack which, if successful, must convince them that the Northern and Eastern States are their greatest enemies; that they are preparing measures for them which even Great Britain, in the heat of the Revolutionary war, and when all her passions were roused by hatred and revenge to the highest pitch, never ventured to inflict upon them. Instead of a course like this, they ought, in my judgment, sir, to be highly pleased with their present situation; that they are fully represented, while we have lost so great a share of our representation; they ought, sir, to be highly pleased at the dexterity and management of their members in the Convention, who obtained for them this great advantage; and, above all, with the moderation and forbearance with which the Southern and Western States have always borne their many bitter provocations on this subject, and now bear the open, avowed, and, by many of the ablest men among them, undisguised attack on our most valuable rights and properties.

At the commencement of our Revolutionary struggle with Great Britain, all the States had slaves. The New England States had numbers of them, and treated them in the same manner the Southern did. The Northern and Middle States had still more numerous bodies of them, although not so numerous as the Southern. They all entered into that great contest with similar views, properties, and designs. Like brethren, they contended for the benefit of the whole, leaving to each the right to pursue its happiness in its own way.

They thus nobly toiled and bled together, really like brethren; and it is a most remarkable fact that, notwithstanding in the course of the Revolution the Southern States were continually overrun by the British, and that every negro in them had an opportunity of leaving their owners, few did; proving thereby not only a most remarkable attachment to their owners, but the mildness of the treatment, from which their affection sprang. They then were, as they still are, as valuable a part of our population to the Union as any other equal number of inhabitants. They were, in numerous instances, the pioneers, and in all the laborers, of your armies. To their hands were owing the erection of the greatest part of the fortifications raised for the protection of our country; some of which, particularly Fort Moultrie, gave, at that early period of the inexperience and untried valor of our citizens, immortality to American arms; and in the Northern States numerous bodies of them were enrolled into and fought by the sides of the whites the battles of the Revolution.

Things went on in this way until the period of our attempt to form our first national compact, the Confederation, in which the equality of vote was preserved, and the first squeamishness on the subject of not using, or even alluding to, the word slavery, or making it a part of our political machinery, was shown. In this compact, the value of the lands and improvements was made the rule for apportioning the public burdens and taxes. But the Northern and Eastern States, who are always much more alive to their interests than the Southern, found that their squeamishness was inconsistent with their interest; and, as usual, made the latter prevail. They found it was paying too dear for their qualms to keep their hand from the slaves any longer. At their instance, and on their motion, as will appear by a reference to the Journals of the Old Congress, the making

lands the rule was changed, and people, including the whites and three-fifths of other descriptions was adopted. It was not until in 1781, that the Confederation was adopted by, and became binding on, all the States. This miserable, feeble mockery of Government crawled on until 1785, when, from New York's refusing to agree with all the States to grant to Congress the impost, (I am not sure, but I believe she stood alone in the refusal,) the States determined no longer to put up with her conduct, and absolutely rebelled against the Government. The first State that did so was New Jersey, who, by a solemn act, passed in all its proper forms by her legislature and government, most positively and absolutely refused any longer to obey the requisitions of Congress, or to pay another dollar. As there was no doubt other States would soon follow their example—as Pennsylvania shortly did—Congress, aware of the mischiefs which must arise if a dissolution took place of the Union before a new Government could be formed, sent a deputation of their own body to address the Legislature of New Jersey, of which I was appointed chairman. We did repair there, and addressed them, and I had the honor and happiness to carry back with me to Congress the repeal of her act by New Jersey—a State, during the whole of the Revolutionary war, celebrated for her patriotism, and who, in this noble self-denial, and forgetfulness of injuries inflicted by New York on her and the rest of the Union, exhibited a disinterestedness and love of Union which did her the highest honor.

The revolt of New Jersey and Pennsylvania accelerated the new constitution. On a motion from Virginia the Convention met at Philadelphia, where, as you will find from the Journals, we were repeatedly in danger of dissolving without doing any thing; that body being equally divided as to large and small States, and each having a vote, and the small States insisting most pertinaciously, for near six weeks, on equal power in both branches—nothing but the prudence and forbearance of the large States saved the Union. A compromise was made, that the small States and large should be equally represented in the Senate, and proportionally in the House of Representatives. I am now arrived at the reason for which I have, sir, taken the liberty to make these preliminary remarks. For, as the true motive for all this dreadful clamor throughout the Union, this serious and eventful attack on our most sacred and valuable rights and properties, is, to gain a fixed ascendency in the representation in Congress; and, as the only flimsy excuse under which the Northern and Eastern States shelter themselves, is, that they have been hardly treated in the representation in this House, and that they have lost the benefit of the compromise they pretend was made, and which I shall most positively deny, and show that nothing like a compromise was ever intended.

By all the public expenses being borne by indirect taxes, and not direct, as was expected; if I can show that all their pretensions and claims are wholly untrue and unfounded, and that while they are fully represented, they did, by force, or something like it, deprive us of a rightful part of our representation, I shall then be able to take the mask from all their pretended reasons and excuses, and show this unpardonable attack, this monster, in its true and uncovered hideousness.

Long before our present public distresses had convinced even the most ignorant and uninformed politician of the truth of the maxim I am about to mention, all the well-informed statesmen of our Union knew that the only true mode for a large agricultural and commercial country to flourish, was never to import more than they can pay for by the export of their own native products; that, if they do, they will be sure to plunge themselves into the distressing and disgraceful situation this country is in at present.

If, then, this great political truth or maxim, or call it what you please, is most unquestionable, let us now see who supports this Government; who raises your armies, equips your navies, pays your public debt, enables you to erect forts, arsenals, and dock yards. Who nerves the arm of this Government and enables you to lift it for the protection, the honor, and extension of our beloved Republic into regions where none but brutes and savages have before roamed? Who are your real sinews in war, and the best—I had almost said nearly the only—sinews and sources of your commerce in peace? I will presently tell you.

If, as no doubt, you will in future confine your imports to the amount of your exports of native products, and all your revenue is to be, as it is now, raised by taxes or duties on your imports, I ask you who pays the expense, and who, in fact, enables you to go on with your Government at all, and prevents its wheels from stopping? I will show you by the papers which I hold in my hand. This, sir, is your Secretary of the Treasury's report, made a few weeks ago, by which it appears that all the exports of native products, from Maine to Pennsylvania, inclusive, for the last year, amounted to only about eighteen millions of dollars; while those among the slaveholding States, to the southward of Pennsylvania, amounted to thirty-two millions or thereabouts, thereby enabling themselves, or acquiring the right, to import double as much as the others, and furnishing the Treasury with double the amount the Northern and Eastern States do. And here let me ask, from whence do these exports arise? By whose hands are they made? I answer, entirely by the slaves; and yet these valuable inhabitants, without whom your very Government could not go on, and the labor of two or three of whom in the Southern States is more valuable to it than the labor of five of their inhabitants in the Eastern States, the States owning and possessing them are denied a representation but

for three-fifths on this floor, while the whole of the comparatively unproductive inhabitants of the Northern and Eastern States are fully represented here. Is it just—is this equal? And yet they have the modesty to complain of the representation, as unjust and unequal; and that they have not the return made them they expected, by taxing the slaves, and making them bear a proportion of the public burdens. Some writers on political economy are of opinion that the representation of a State ought always to be equally founded on population and taxation. It is my duty to believe that these are the true criterions; for my own State (South Carolina) having, in her House of Representatives, 124 members, 62 of them are apportioned by the white population, and 62 on taxation; thus representing the contributions of our citizens in every way, whether arising from services or taxes.

Before I proceed to the other parts of this question, I have thus endeavored to give a new view of the subject of representation in this House; to show how much more the Eastern and Northern States are represented than the Southern and Western; how little right the former have to complain, and how unreasonable it is that, while, to continue the balance of representation in the Senate, we consent to give admission to Maine, to make up for Missouri, they most unconscionably require to have both, and thus add four to the number now preparing, most cruelly, to lift the arm of the Government against the property of the Southern and Western States.

If I have succeeded, as I hope I have, in proving the unreasonableness of the complaints of the Eastern and Northern States on the subject of representation, it would, I suppose, appear extraordinary to the people of this nation that this attempt should now be made, even if Congress should be found to possess the right to legislate or interfere in it. But if, in addition to this, it should be in my power to show that they have not the most distant right to interfere, or to legislate at all upon the subject of slavery, or to admit a State in any way whatever except on terms of perfect equality; that they have no right to make compacts on the subject, and that the only power they have is to see that the government of the State to be admitted is a republican one, having legislative, executive, and judiciary powers, the rights of conscience, jury, a habeas corpus, and all the great leading principles of our republican systems, well secured, and to guarantee them to it: if I shall be able to do this, of course the attempt must fail, and the amendment be rejected.

The supporters of the amendment contend that Congress have the right to insist on the prevention of involuntary servitude in Missouri; and found the right on the ninth section of the first article, which says, "the migration or importation of such persons as the States now existing may think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation not exceeding ten dollars."

In considering this article, I will detail, as far as at this distant period is possible, what was the intention of the Convention that formed the constitution in this article. The intention was, to give Congress a power, after the year 1808, to prevent the importation of slaves either by land or water from other countries. The word *import*, includes both, and applies wholly to slaves. Without this limitation, Congress might have stopped it sooner under their general power to regulate commerce; and it was an agreed point, a solemnly understood compact, that, on the Southern States consenting to shut their ports against the importation of Africans, no power was to be delegated to Congress, nor were they ever to be authorized to touch the question of slavery; that the property of the Southern States in slaves was to be as sacredly preserved, and protected to them, as that of land, or any other kind of property in the Eastern States were to be to their citizens.

The term, or word, migration, applies wholly to free whites; in its constitutional sense, as intended by the Convention, it means "voluntary change of servitude," from one country to another. The reasons of its being adopted and used in the constitution, as far as I can recollect, were these: that the constitution, being a frame of government, consisting wholly of delegated powers, all power, not expressly delegated, being reserved to the people or the States, it was supposed, that, without some express grant to them of power on the subject, Congress would not be authorized ever to touch the question of migration hither, or emigration to this country, however pressing or urgent the necessity for such a measure might be; that they could derive no such power from the usages of nations, or even the laws of war; that the latter would only enable them to make prisoners of alien enemies, which would not be sufficient, as spies or other dangerous emigrants, who were not alien enemies, might enter the country for treasonable purposes, and do great injury; that, as all Governments possessed this power, it was necessary to give it to our own, which could alone exercise it, and where, on other and much greater points, we had placed unlimited confidence; it was, therefore, agreed that, in the same article, the word migration should be placed; and that, from the year 1808, Congress should possess the complete power to stop either or both, as they might suppose the public interest required; the article, therefore, is a *negative pregnant*, restraining for twenty years, and giving the power after.

The reasons for restraining the power to prevent migration hither for twenty years, were, to the best of my recollection, these: That, as at this time, we had immense and almost immeasurable territory, peopled by not more than two millions and a half of inhabitants, it was of very great consequence to encourage the emigration of able, skilful, and industrious

Europeans. The wise conduct of William Penn, and the unexampled growth of Pennsylvania, were cited. It was said, that the portals of the only temple of true freedom now existing on earth should be thrown open to all mankind; that all foreigners of industrious habits should be welcome, and none more so than men of science, and such as may bring to us arts we are unacquainted with, or the means of perfecting those in which we are not yet sufficiently skilled —capitalists whose wealth may add to our commerce or domestic improvements; let the door be ever and most affectionately open to illustrious exiles and sufferers in the cause of liberty; in short, open it liberally to science, to merit, and talents, wherever found, and receive and make them your own. That the safest mode would be to pursue the course for twenty years, and not, before that period, put it at all into the power of Congress to shut it; that, by that time, the Union would be so settled, and our population would be so much increased, we could proceed on our own stock, without the farther accession of foreigners; that, as Congress were to be prohibited from stopping the importation of slaves to settle the Southern States, as no obstacle was to be thrown in the way of their increase and settlement for that period, let it be so with the Northern and Eastern, to which, particularly New York and Philadelphia, it was expected most of the emigrants would go from Europe: and it so happened, for, previous to the year 1808, more than double as many Europeans emigrated to these States, as of Africans were imported into the Southern States.

The people of Europe, from their total ignorance of our country and Government, have always augured that its great extent, when it came to be thickly peopled, would occasion its separation; this is still the opinion of all, and the hope of many there; whereas, nothing can be more true in our politics than that, in proportion to the increase of the State governments, the strength and solidity of the Federal Government are augmented; so that, with twenty or twenty-two governments, we shall be much more secure from disunion than with twelve, and ten times more so than if we were a single or consolidated one. By the individual States exercising, as they do, all the powers necessary for municipal or individual purposes—trying all questions of property, and punishing all crimes not belonging, in either case, to the federal courts, and leaving the General Government at leisure and in a situation solely to devote itself to the exercise of the great powers of war and peace, commerce and our connections with foreigners, and all the natural authorities delegated by the constitution, it eases them of a vast quantity of business that would very much disturb the exercise of their general powers. Nor is it clear that any single government, in a country so extensive, could transmit the full influence of the laws necessary to local purposes through all its parts; whereas, the State governments, having all a convenient surrounding territory, exercise these powers with ease, and are always at hand to give aid to the federal tribunals and officers placed among them to execute their laws, should assistance be necessary. Another great advantage is, the almost utter impossibility of erecting among them the standard of faction, to any alarming degree, against the Union, so as to threaten its dissolution, or produce changes in any but a constitutional way. It is well known that faction is always much more easy and dangerous in small than large countries; and when we consider that, to the security afforded by the extent of our territory are to be added, the guards of the State Legislatures, which being selected as they are, and always the most proper organs of their citizens' opinions as to the measures of the General Government, stand as alert and faithful sentinels to disprove, as they did in the times that are past, such acts as appear impolitic or unconstitutional, or to approve and support, as they have frequently done since, such as were patriotic or praiseworthy. With such guards it is impossible for any serious opposition to be made to the Federal Government on slight or trivial grounds; nor, through such an extent of territory or number of States, would any but the most tyrannical or corrupt acts claim serious attention; and, whenever they occur, we can always safely trust to a sufficient number of the States arraying themselves in a manner to produce by their influence the necessary reforms, in a peaceable and legal mode. With twenty-four or more States it will be impossible, sir, for four or five States, or any comparatively small number, ever to threaten the existence of the Union. They will be easily seen through by the other eighteen or twenty, and frowned into insignificance and submission to the general will, in all cases where the proceedings of the Federal Government are approved by them. And, even in cases where doubts may arise as to the wisdom or policy of their measures, all factious measures will be made to wait constitutional redress, in the peaceable manner prescribed by the constitution.

Without the instrumentality of the States in a country so large and free, and with their Government at a great distance from its extremities, there would be considerable danger of faction; but at present there is very little, and, as the States increase, the danger will lessen; and it is this admirable expanding principle or system, if I may use the term, which, while it carries new States and governments into our forests and increases the population and resources of the Union, must unquestionably, at the same time, add to its means to resist and repress with ease all attacks of foreign hostility or domestic faction. It is this system, which is not at all understood in Europe and too little among ourselves, that will long keep us a strong and united people; nor do I see any question, but the one which respects slavery, that can ever divide us.

The question being the admission of a new

State, I hope these remarks will be considered as in point, as they go to show the importance of the State governments, and how really and indeed indispensably they are the pillars of the Federal Government, and how anxious we should be to strengthen and not to impair them, to make them all the strong and *equal* supporters of the federal system.

With respect to Louisiana, Congress have already by their acts solemnly ratified the treaty which extends to all the States, created out of that purchase, the benefits of an admission into the Union on equal terms with the old States; they gave to Louisiana first, and afterwards to Missouri and Arkansas, Territorial governments, in all of which they agreed to the admission of slaves. Louisiana was incorporated into the Union, allowing their admission; Missouri was advanced to the second grade of Territorial government, without the prohibition of slavery: thus, for more than sixteen years, Missouri considered herself precisely in the situation of her sister Louisiana, and many thousands of slaves have been carried by settlers there. To deny it, then, now, will operate as a snare, unworthy the faith of this Government. What is to be done? Are the slaves now there to be manumitted, or their masters obliged to carry them away, break up all their settlements, and, in this unjust and unexpected manner, to be hurled into ruin? If we are to pay no respect to the constitution, or to treaties, are we to pay no respect to our own laws, by which the faith of the nation has, for sixteen years, been solemnly pledged, that no prohibition would take place, as to slavery, in those States? I have said so much, to show how important it is to the firmness and duration of the American Union, to preserve the States and their government in the full possession of all the rights secured by the constitution.

I have hitherto said nothing of the treaty, as I consider the rights of Missouri to rest on the constitution so strongly, as not to require the aid of the treaty. But, I will, at the same time say, that, if there was no right under the constitution, the treaty, of itself, is sufficient, and fully so, to give it to her. Let us, however, shortly examine the treaty. The words are these: "The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities, of the citizens of the United States." Of these it is particularly observable, that, to leave no doubt on the mind of either of the Governments which formed it, or of any impartial man, so much pains are taken to secure to Louisiana all the rights of the States of the American Union, a singular and uncommon surplusage is introduced into the article. Either of the words, *immunities*, *rights*, or *advantages*, would have been, of itself, fully sufficient. *Immunity* means privilege, exemption, freedom—*right* means justice, just claim, privilege—*advantage* means convenience, gain, benefit, favorable to circumstances. If either word, therefore, is sufficient to give her a right to be placed on an equal footing with the other States, who shall doubt of her right, when you now find that your Government has solemnly pledged herself to bestow on, and guarantee to, Louisiana all the privileges, exemptions, and freedom, rights, immunities, and advantages, justice, just claims, conveniences, gains, benefits, and favorable circumstances, enjoyed by the other States?

In speaking of treaties, Vattel states as follows: "The implicit submission to their authority which is exhibited everywhere, proves the strength, indeed, unanswerable strength, in which it is founded."

These writers say, that every thing which the public safety renders inviolable is sacred in society. Who, then, can doubt that treaties are in the number of those things that are held most sacred by nations? They determine the most important affairs, give rules to their pretensions, and secure their most precious interests. But treaties are only vain words, if they are not considered as inviolable rules to sovereigns, and as sacred throughout the whole world. Treaties are, then, most holy and sacred among nations; and, if people are not wanting to themselves, infamy must ever be the share of him who violates his faith; for, in doing so, he violates the law of nations; he despises that faith which they declare sacred; he is doubly guilty—he does an injury to all nations, and wounds the whole human race.

Having thus, I trust, proved clearly that you have no right to adopt this inhibition of slavery, but are forbid to do so by the constitution, as well as by the treaty, I ought perhaps to stop here; but there are some other points which I ought not to pass unnoticed. One of these is the ordinance of July, 1787, passed by the Old Congress, at the period of the sitting of the Convention in Philadelphia, for forming the constitution, by which that body (the Old Congress) undertook to form a code for the future settlement, government, and admission into the Union, of all the Territory Northwest of the river Ohio, ceded by Virginia to the United States in 1785; which cession has so often been read to the House in this discussion. On this subject, I beg leave to remark that, by the Confederation of the United States, the Old Congress had no power whatever but that of admitting new States, provided nine States assented. By this, it is most unquestionable, that no number of States under nine had any right to admit new States. Of course, it was the intention of the Confederation that, on so important a measure as the establishment of governments for, and the admission of, new States, Congress should never possess the power to act, unless nine States were represented in that body at the time of their doing so. This ordinance, therefore, in prescribing the forms of government, as they respected legislative,

executive, and judiciary powers, in establishing bills of rights, and the times and terms of their admission into the Union, and inhibiting servitude therein, is chargeable with ingratitude, and usurpation. It is chargeable with ingratitude, when we reflect that the cession of the great tract of country—this rising empire of freemen—was gratuitously, and with noble disinterestedness and patriotism, made by Virginia, that the passing of an ordinance which contained a provision which could not but go to prevent the admission of Virginians there, as they could not move there with their slaves, was a most ungracious and ungrateful return to that State for her liberality, and could not but meet with the disapprobation of this nation.

Let us, sir, recollect the circumstances the Old Congress were in at the time they passed this ordinance: they had dwindled almost to nothing; the Convention had been then three months in session; it was universally known a constitution was in its essentials agreed to; and the public were daily expecting (what soon happened) the promulgation of a new form of Government for the Union. I ask, sir, was it under these circumstances proper for a feeble, dwindled body, that had wholly lost the confidence of the nation, and which was then waiting its supercession by the people—a feeble, inefficient body, in which only seven or eight States were represented, the whole of which consisted of but seventeen or eighteen men—a number smaller than your large committees; a body literally in the very agonies of political death;—was it, sir, even decent in them (not to say lawful or constitutional) to have passed an ordinance of such importance? I do not know or recollect the names of the members who voted for it, but it is to be fairly presumed they could not have been among the men who possessed the greatest confidence of the Union, or at that very time they would have been members of the Convention sitting at Philadelphia.*

Let those acquainted with the situation of the people of Asia and Africa, where not one man in ten can be called a freeman, or whose situation can be compared with the comforts of our slaves, throw their eyes over them, and carry them to Russia, and from the North to the South of Europe, where, except Great Britain, nothing like liberty exists. Let them view the lower classes of their inhabitants, by far the most numerous of the whole; the thousands of beggars that infest their streets, more than half starved, half naked, and in the most wretched state of human degradation. Let him then go to England; the comforts, if they have any, of the lower classes of whose inhabitants are far inferior to those of our slaves. Let him, when there, ask of their economists, what are the numbers of millions daily fed by the hand of charity; and, when satisfied there, then let him come nearer home, and examine into the situation of the free negroes now resident in New York and Philadelphia, and compare them with the situation of our slaves, and he will tell you that, perhaps, the most miserable and degraded state of human nature is to be found among the free negroes of New York and Philadelphia, most of whom are fugitives from the Southern States, received and sheltered in those States. I did not go to New York, but I did to Philadelphia, and particularly examined this subject while there. I saw their streets crowded with idle, drunken negroes, at every corner; and, on visiting their penitentiary, found, to my astonishment, that, out of five hundred convicts there confined, more than one-half were blacks; and, as all the convicts

* This ordinance is constantly quoted as of the year 1787, and, consequently, as the work of the members of the Continental Congress of that year; but it is, in reality, of the date of 1784, and of the members of that year, headed by Mr. Jefferson. Virginia made her great cession of the Northwest Territory in 1781, and perfected it by deed of cession in April, 1784; and being the great grantor of that great domain, and upon conditions for her own and the common benefit, her delegation in Congress naturally took the lead in making the cession available according to its intent. Mr. Jefferson was then a delegate in the Continental Congress, and one of the three members who signed and delivered the deed. His organizing mind naturally charged itself with the measures which were to grow out of the cession, and the first of that charge was an ordinance for the government of the Northwest Territory, containing every thing in the ordinance of 1787, except the clause for the recovery of fugitives from service; and laying its foundations in compact. The anti-slavery clause was in it; but that clause was rejected because the recovery clause was not added. With that exception the ordinance then passed, and continued in force until it was superseded by the amended ordinance of 1787—efforts having been made at each cession, without effect, to insert the anti-slavery clause. This was done in 1787—Virginia again taking the lead. The committee who reported it had two Virginia members upon it, (Messrs. Carrington and R. H. Lee,) and one South Carolinian, (Mr. Kean,) and two members from non-slaveholding States, (Messrs. Dane of Massachusetts, and Smith of New York.) They reported the bill as it now stands, (the anti-slavery and fugitive slave recovery clause added;) and it passed unanimously, and within the exact time which the forms of legislation permitted. They reported on Wednesday, the 11th of July, when it was read the first time, and ordered to a second reading the next day. The next day it was read the second time, and ordered to a third reading the day after: and on that day, Friday, the 18th, it was read the third time, and unanimously passed. It repealed the ordinance of 1784, which had thus been in force three years; and containing, as originally drawn, all the provisions of the ordinance of 1787, except the provision relative to fugitives from service, its date may be considered that of the ordinance of 1787 in all that concerns its merits or demerits. At the adoption of the ordinance of 1787—its re-enactment, with the anti-slavery clause added—there were but three free States present; *to wit:* Massachusetts, New York, New Jersey: while of slave States there were five present; *to wit:* Delaware, Virginia, North Carolina, South Carolina, Georgia. From the slave States every delegate from every State voted for the ordinance: of the free States, one member from one State, (Mr. Yates of New York,) voted against it.

throughout that State are sent to that penitentiary, and, if Pennsylvania contains eight hundred thousand white inhabitants, and only twenty-six thousand blacks, of course the crimes and vices of the blacks in those States are, comparatively, twenty times greater than thoses of the whites in the same States, and clearly proves that a state of freedom is one of the greatest curses you can inflict on them.

From the opinions expressed respecting the Southern States and the slaves there, it appears to me most clear, that the members on the opposite side know nothing of the Southern States, their lands, products, or slaves. Those who visit us, or go to the southward, find so great a difference that many of them remain and settle there. I perfectly recollect that when, in 1791, General Washington visited South Carolina, he was so surprised at the richness, order, and soil of our country, that he expressed his great astonishment at the state of agricultural improvement and excellence our tide-lands exhibited. He said he had no idea the United States possessed it. Had I then seen as much of Europe as I have since, I would have replied to him, that he would not see its equal in Europe. Sir, when we recollect that our former parent State was the original cause of introducing slavery into America, and that neither ourselves nor ancestors are chargeable with it; that it cannot be got rid of without ruining the country, certainly the present mild treatment of our slaves is most honorable to that part of the country where slavery exists. Every slave has a comfortable house, is well fed, clothed, and taken care of; he has his family about him, and in sickness has the same medical aid as his master, and has a sure and comfortable retreat in old age, to protect him against its infirmities and weakness. During the whole of his life he is free from care, that canker of the human heart, which destroys at least one-half of the thinking part of mankind, and from which a favored few, very few, if indeed any, can be said to be free. Being without education, and born to obey, to persons of that description moderate labor and discipline are essential. The discipline ought to be mild, but still, while slavery is to exist, there must be discipline. In this state they are happier than they can possibly be if free. A free black can only be happy where he has some share of education, and has been bred to a trade, or some kind of business. The great body of slaves are happier in their present situation than they could be in any other, and the man or men who would attempt to give them freedom, would be their greatest enemies.

All the writers who contend that the slaves increase faster than the free blacks, if they assert what is true, prove that the black, when in the condition of a slave, is happier than when free, as, in proportion to the comfort and happiness of any kind of people, such will be the increase; and the next census will show what has been the increase of both descriptions, free, and slave, and will, I think, prove the truth of these opinions.

TUESDAY, February 15.

The Missouri Bill.

The House then again resolved itself into a Committee of the Whole, on this bill.

Mr. RANKIN, of Mississippi, took the floor, and spoke more than an hour against the restriction.

Mr. R. observed, that Creon, King of Thebes, had been represented by Euripides, to have sent a herald to Athens, who inquired for the King of Athens. Theseus replied, "You seek him in vain; this is a free city, and the sovereign power is in all the people." In our Government, all admit the sovereignty of the people; but, if the arguments of gentlemen who advocate this restriction be correct, Congress possesses absolute sovereignty, and the people are their servants. It is urged that, although Congress has no express delegation of power in the constitution, yet Congress may, by virtue of its sovereign power, impose any conditions on the admission of Missouri into the Union. There is no sovereignty in Congress, known to the constitution, except such as is expressly delegated; the limits of which are clearly marked and defined by that instrument. Even State governments, which derive their powers immediately from the people, are but a portion of natural liberty or absolute sovereignty, delegated to rulers, to be exercised for the common welfare. The Federal Government, emanating from the States, and wielding an authority regulating and protecting the community of States, is one degree farther removed from the source of power. In such a Government, we are not required, as gentlemen have contended, to search the constitution for prohibitions, but we search for what is delegated. The silence of the constitution is our law—a mandate as prohibitory to our exercise of legislation, as the voice of the Almighty to the waves of ocean. Its language is, "Thus far shall you go, and no farther." Depart from these principles, and you tread on dangerous grounds. Imagine you possess an undefined, unlimited sovereignty, not delegated, but resting on your capricious will, superior to all constitution and laws, and you sap the foundation of your liberty; sooner or later you are buried in the ruins of the superstructure. Despotism is equally dangerous, odious, and oppressive, whether exercised by an individual or the National Legislature. Despotism is but the arbitrary exercise of powers limited, defined, and bounded by no law but the sovereign will of the despot.

Without resorting to general principles and reasoning, the language of the constitution itself is sufficiently explicit as to what we may do constitutionally. The first article declares, that all powers therein "granted are vested in the Congress of the United States." We have, then, to inquire, is the power to impose this

restriction "granted" by the constitution? If there be any doubt on that subject, prudence, at least, forbids us to proceed farther. The 9th and 10th articles of the amendments declare, "that the enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people;" and "that the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." I have been particular in making these preliminary remarks, because gentlemen who have occupied a distinguished ground in favor of the restriction appear to rely much on the sovereignty of Congress. It is necessary that a thing so powerful in its operations should be clearly understood.

Regarding the principles already laid down, let us proceed to examine the different clauses and sections of the constitution which are supposed to enable us constitutionally to impose this restriction on Missouri. In pursuing the course which I had originally designed for myself, (said Mr. R.,) I must necessarily tread on some of the grounds occupied by the gentlemen who have preceded me in the debate. This is a misfortune arising from the necessity which has compelled me to delay my argument until this period, but would not justify presenting it to the committee mutilated and imperfect.

By the 9th section of the first article of the constitution, it is declared, "the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by Congress prior to the year 1808," &c. Does this delegate any power to Congress to prohibit the importation of slaves, even after the year 1808? A gentleman from Pennsylvania (Mr. SERGEANT) says, that a prohibition of the exercise of a power necessarily implies that there is a power to be restricted. This conclusion is by no means necessary. It may proceed from abundant caution, in order to avoid the doctrine of implied powers, which have been so much used in this discussion. But even this restriction, which might, at the time the article was prepared, have appeared necessary, in order to reconcile the contrariety of opinions that then existed, and quiet the jealousies of the States, became unnecessary when the amendments were subsequently adopted, confining the exercise of the powers of Congress to what was expressly delegated. Many enlightened statesmen viewed the Federal Government as a monster crouching over the State sovereignties, already possessed of powers, which at some future day it would exert, sufficient to annihilate them, and therefore imposed checks and barriers where none were necessary. This is mentioned, not with a view of disturbing antecedent legislation, but to show that, in the united zeal of the North and South to terminate the slave trade, they have exercised a power at least questionable. But, if questionable in relation to that which implication favors, how much more so in regard to this new, undefined, unlimited assumption of sovereignty?

In the construction of this section, said Mr. R., we should adopt the rules dictated by common sense, applicable to such subjects. Construe it either literally or according to the spirit and meaning. Gentlemen in favor of this restriction, may adopt either, or both, as will best suit their purpose. Gentlemen, not satisfied with this, ask us to admit that the word "persons," means negroes or slaves, which meaning they derive from the spirit and meaning of the section, and adopt a literal sense for the word "migration," which is said to mean a transition from one State into another, although you may not travel a mile in the passage. Heretofore, when any man was asked what is the meaning of this section, he immediately replied, "to enable Congress to prohibit the slave trade after the year 1808." But, sir, to what conclusion do we arrive in construing this section literally? The word "persons," is a generic term, embracing every description of human beings, no matter of what complexion, while the words "migration and importation" are of equally extensive signification; the former including such persons as have volition, and can migrate; and the latter, such as have no volition, but are imported or carried along by the will of the master. This signification to the word migration, appears to comport with its original, or, what a gentleman from Delaware (Mr. MCLANE) was pleased to call its technical use, being applied to the passage of birds from one region into another, changing their climate at pleasure, free as the air they skim in the transition. It has been subsequently used to signify a voluntary change of country by individuals and families, but never to signify an involuntary removal.

If this word "migration" must have a meaning unconnected with, and different from "importation," why not use it, as many contend it was originally designed by the Convention, to enable Congress to prohibit the influx or migration of foreigners to our country, after a limited period? This word "migration" was, therefore, either intended to apply to emigration from Europe, or, what appears equally probable, was intended, in connection with the word "persons," to disguise this anti-republican feature in our republican constitution. For why should the Convention conceal the words "negroes or slaves," under the word "persons," and, in the same sentence, speak of the "importation" of "persons" as they would of a bale of merchandise? The words "shall think proper to admit," point strongly to an admission from abroad, and not to a mere change of residence within the United States.

Some regard, as gentlemen in opposition to the principles I advocate have very justly contended, ought to be paid to a long-continued exposition of this section, by legislation in relation to its provisions. The authorities produced by the friends of restriction, to show the

respect which tribunals of justice pay to this principle, will be applied by them while we trace the course of legislation adopted by Congress in relation to this subject. Upwards of thirty years have elapsed since the adoption of the constitution, during which period Congress have, with a vigilance that never reposed, directed their efforts to the abolition of the slave trade, without even suspecting they possessed the power now attempted to be assumed—a power to prevent an American citizen from changing his residence, and carrying with him his slave to any section of the Union where slavery is not prohibited. How easily might every preceding Congress have exercised their "humanity" in preventing an "extension of the evils of slavery" to the States of Kentucky, Tennessee, Louisiana, Mississippi, and Alabama! But the wisdom of 1819 was alone competent to this arduous task; this discovery of "negatives pregnant," and latent and dormant powers.

In 1794, Congress prohibited "residents" in, or "citizens" of, the United States, from fitting out vessels for the slave trade, and, in 1800, from having an interest in vessels fitted out for that purpose. The act of 1803 prohibited the importation of slaves into States where slavery was prohibited by law, and that of 1807, passed in anticipation of the period fixed in the constitution, was intended for ever to terminate that traffic to the United States. From that period until the last session of Congress, it was believed by all sides that, whatever power was delegated by this section, had been expended in legislation.

What construction was given this article by contemporaneous expositions? In that most able commentary on the Constitution of the United States, called the Federalist, which is known to be the joint production of Mr. Madison, General Hamilton, and "that great civilian, Mr. Jay," we have a construction which will be found in No. 42 of that work. Add to this an authority, which gentlemen in favor of this restriction will certainly be disposed to respect, the opinion of the Massachusetts Convention, when in debate on the Constitution of the United States. They say that, by the old Articles of Confederation, the General Government had no power to prevent the importation of slaves into the States, and rejoice that a period is fixed when Congress may interpose its authority, and for ever terminate this traffic.

The meaning of this section we have from a very distinguished man, who was a member of the General Convention that formed the Constitution of the United States. There was a time when the brilliancy of this man's mind illumined the path of reason and penetrated the labyrinths of art and science; yesterday he was within these walls, but no longer what he was; he stands the melancholy wreck of intellectual greatness, teaching humiliation to human pride, and showing how low man can be depressed when enervating disease palsies his frame, and the hand of the Almighty presses upon him. I refer to Luther Martin, of Maryland. When called upon by the Legislature of his State to declare his objections to the constitution, previously to its adoption, in a written communication to that body, he declares:

"By the ninth section of this article, the importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited, prior to the year 1808, but a duty may be imposed on such importation."

"The design of this clause is to prevent the General Government from prohibiting the importation of slaves; that the same reasons which caused them to strike out the word 'national,' and not admit the word 'stamps,' influenced them here to guard against the word slaves; they anxiously sought to avoid the admission of expressions which might be odious in the ears of Americans, although they were willing to admit into their system those things which the expression signified; and hence it is, that the clause is so worded as to authorize the General Government to impose a duty of ten dollars on every foreigner who comes into a State to become a citizen, whether he comes absolutely free, or qualified so as a servant; although this is contrary to the design of the framers, and the duty was only meant to extend to the importation of slaves." P. 55.

After observing that the committee of detail had reported this clause, without limitation as to the time of importation, which provision the Convention rejected, he says: "they were informed by the delegates from South Carolina and Georgia that their States never would agree to any system which put it in the power of the General Government to prevent the importation of slaves, and that they, as delegates from those States, must withhold their assent from such system." A committee, composed of one member from each State, was chosen, to whom this subject, together with that part of the report of the committee of detail which declared "that no navigation act shall be passed, without the assent of two-thirds of the members present in each House," was referred. "This committee," says he, "of which also I had the honor to be a member, met, and took into their consideration the subjects committed to them; I found the Eastern States, notwithstanding their aversion to slavery, very willing to indulge the Southern States, at least with a temporary liberty to prosecute the slave trade, provided the Southern States would, in their turn, gratify them by laying no restriction on the navigation acts; and after a very little time the committee, by a great majority, agreed on a report, by which the General Government was to be prohibited from preventing the importation of slaves, for a limited time, and the restrictive clause relative to navigation acts was to be omitted."

He adds, in page 58, "You will perceive, sir, not only that the General Government is prohibited from interfering in the slave trade, before the year 1808, but there is no provision in the constitution that it shall afterwards be prohibited, nor any security that such prohibition will ever take place."

This statement is not made from frail memory, after time had almost effaced the recollection of scenes long transpired, but is history itself, recording events while transacting.

Mr. HENDRICKS, of Indiana, spoke as follows:

Mr. Chairman, the history of the Northwestern Territory is connected with the earliest and the proudest days of this Republic, and its history in times to come will show it warmly and devotionally attached to the rights of the States and the integrity of the Union. Sir, there is nothing fortuitous or uncertain in this opinion. The States of Ohio, Indiana, and Illinois, are standing monuments of the magnanimity of an ancient and respectable State, (Virginia.) They are monuments also of a wise and liberal policy, whence springs their happy institutions, and their freedom from slavery, that great evil of the South. They show a policy of the General Government, which, should it roll on with the flood of emigration to the West, will add a constellation to your Union, equal in lustre to the brightest star of the East. This is the view of the amendment under discussion—an amendment which commands my approbation and coerces my support. An amendment, objectionable, say gentlemen, because Congress have not the constitutional power to enact it. Those who oppose the restriction of slavery in Missouri call for the constitutional provision, which authorizes the measure—call for the speaking index which points to this question, as though every measure of the Government could have been anticipated, and all its future incidents seen by the framers of the constitution.

Mr. Chairman, the language of the constitution is plain enough for me. And here let me remark, that this amendment presents itself to my mind in a point of view different from that in which it appears to be considered by most gentlemen who have spoken of it. This amendment is objected to, because it is understood to propose conditions for the State of Missouri. This is not the way I understand it. It speaks to the people of Missouri Territory, and not to the State of Missouri. To the people of the Missouri Territory, and to the people of all the territories, we have been in the habit of speaking. Even gentlemen on the opposite side of the question admit we may speak to them.

Sir, I think, in the progress of this discussion, it has been clearly made out that Congress may impose conditions. Indeed, this seems of necessity to be admitted on all hands, for without admitting this principle we cannot justify the government we hold over the territories, or the control we hold over the public lands within the limits of the new States. Sir, in this case, we do not dictate to, or impose conditions on, the State. We only say to the people of the Territory what we consider necessary for their constitution to contain, and without which they are not to expect admission into the Union. They are not possessed of sovereign State powers when making this constitution, nor when it is made, until Congress shall admit them into the Union. This ceremony of admission has been deemed necessary in the history of our Government, in relation to all the new States. Their sovereign State power is derived from the constitution, which has not force or efficacy until approved by Congress. It is true the power which made this constitution was in existence before, but it was chaos reduced by these proceedings to consistency and order.

But, it is said, that by this amendment you require these conditions to be adopted by Missouri, and to come from her, because Congress have not the power to make or impose them. This, sir, is true, and is correct, in the same way that the first party to a contract must obtain the consent of the second party before the contract is complete; but, after that consent is obtained, the first party has the same advantage from it, and it is as binding on the second party as if all had been originally in the power of the first party; for, in truth, this is nothing more or less than a contract, and it is one of those contracts which, though made in the minority of Missouri, will be binding on her after she shall arrive at full age. I deny, then, Mr. Chairman, that any thing required by this amendment is to be done in the character or capacity of a State, on the part of Missouri.

Again, sir, the treaty. The third article of the treaty so much spoken of in this debate, could not have been intended to pass the boundaries of the constitution. If such were its stipulations those stipulations could not be carried into effect. Sir, what created the treaty-making power? The constitution; and the moment the treaty-making power passes the boundaries of the constitution, that moment its powers become annihilated. We are told that it is now too late to object to the treaty—that it has been ratified by the Senate, and sanctioned by the House of Representatives, in the passage of laws to carry it into effect. Sir, I do not object to the validity of the treaty. The acquisition of Louisiana was one of the happiest epochs of our political history since the close of the Revolution. But I object to any construction of that treaty unknown to and unauthorized by the constitution. I object to any construction of the treaty which would do away the discretion of Congress in the admission of new States. Can any unconstitutional stipulation in a treaty gain strength by the ratification of the Senate, or the passage of a law by Congress to carry that treaty into effect? Surely not. Suppose, for instance, that the treaty-making power had stipulated that the appointment of the officers, and the authority of training the militia of the States to be formed west of the Mississippi, should be reserved to the Government of the United States,—would gentlemen tell us that the stipulation could be carried into effect? No; because such stipulation would be contrary to the Constitution of the United States. Such stipulation would be an infringement of the rights of the

States. And are we not to guard the rights of the General Government, as well as those of the States? The treaty, then, I understand as placing the inhabitants of the province of Louisiana in the same situation they would have been in if they had been included within the original limits established by the Treaty of Peace.

Sir, if the treaty-making power can pass the limits of the constitution, it could have provided that the States to be formed in the province of Louisiana could have the power of making war or peace, or of creating titles of nobility. The language of the treaty is, in substance, the language of the constitution; and the privileges and immunities conferred on the Louisianian must be such privileges and immunities as the Government of the United States can bestow; for, according to the principles of the gentlemen opposed, neither the treaty nor the constitution can confer on the ancient inhabitant of Louisiana the rights and privileges which result from the regulations of a State, and which are the offspring of municipal law, because these things, say gentlemen, are the prerogatives of State sovereignties, and cannot be exercised by Congress. Then, what are the privileges and immunities of an inhabitant of Louisiana under the treaty and the constitution? They are simply those of a citizen, distinguished from a foreigner or an alien. The inhabitant of Louisiana is not subject to the requisitions of an alien law; he becomes at once a citizen of the United States. The treaty, then, does not seem to stand in the way of the free operation of the constitution—the practice and policy of the Government—in the admission of new States. There is no guarantee in the treaty in favor of adventurers to the country, or in favor of the Louisianian, after he shall have become a member of the State government.

The force of the treaty then fails, gentlemen. It is imposing conditions on him, in the character of a citizen of a *State*, of which they complain; and in such character the treaty has no guarantee in his favor, and it would be absurd if it had. It would be France stipulating for the privileges and immunities of citizens, not only of the United States, but of a particular State.

But, sir, to the positive language of the constitution: "Congress shall have power to dispose of, and to make all needful rules and regulations respecting the territory, or other property belonging to the United States." Here there is a direct power; absolute control over the most important and first object of sovereignty. Here is a constitutional power, more extensive than is necessary for the amendment before the committee. Congress owns, in fee simple, the soil of the country. This soil may be retained by its owners, or it may be parted with on conditions. It may be leased for life or for years. These leases may contain as many conditions as may be agreed on. One of these may be, that the soil shall not be cultivated by a slave, and that it shall not be the residence of a slave. Sir, the citizen of the United States, no matter whether he be from the South or North, may constitutionally be prevented from settling that soil. Your standing armies and your militia may be marched from every State to dispossess him. This is a policy which the Government will very seldom adopt, but the power to adopt it is found in the constitution, and it is the constitutional power to adopt this measure which we are now in search of, and not its expediency. Sir, this part of the constitution is not a dead letter. Look at your statute book. There you will find laws specifying this power and authorizing its exertion, in driving intruders from the public lands. It is but a few years, sir, since the President's proclamation required the exercise of this power, and, but for the relaxing policy of the Government, the military force of the country would have been employed in carrying it into effect. Here, then, is a case in which Congress may constitutionally exclude the further introduction of freemen from that soil; much easier, do I apprehend, may she exclude slaves; mere property. A case in which Congress may, after the admission of a State without restriction of slavery, hold a direct and absolute negative over the peopling her territory with slaves.

Sir, the third section of the fourth article of the constitution says, "that new States may be admitted by the Congress into this Union." Here, sir, is all the power known to the constitution, on the subject of admitting new States. Congress may admit, and may refuse admission. Congress may exercise abroad an uncontrollable discretion on the subject; but, in the proper exercise of this discretion, Congress may not reject without a cause. If a cause of rejection exist, this House will know it. Congress may then examine the boundaries exhibited in the constitution submitted, to see that they do not pass the limits and boundaries of this Government; for, if the doctrine contended for by many gentlemen on this floor be correct, that Congress can only determine whether the constitution be republican or not, then the question of boundary would be an improper inquiry for this House. The people claiming admission might stop at the Sabine, or go to the Rio del Norte. They might include the more western provinces of Mexico, or go to the Isthmus of Darien. This doctrine established, with the binding obligations of the treaty to admit the people of Missouri, as contended for by other gentlemen, and the question of boundary with Spain is no longer under the sole direction of the treaty-making power. The people of Missouri may go to the West and to the South, to the furthermost boundary ever claimed by the Government. You are bound by treaty, say gentlemen, to admit them, and, once admitted, you are bound by the constitution to protect them against invasion.

Mr. Chairman, I am not at liberty to inquire

how the slaves of the South became slaves. I am not at liberty to inquire what ruthless hand first manacled the slave, and trampled on the natural rights of man. I may not travel out of the record, the constitution. In that instrument, although the terms *manacle* and *slave* are not to be found, this species of property is recognized by strong language, and by definition too plain to be mistaken. With pleasure do I hear, from the representatives of the South, that this evil does not lie at their door; and with equal pleasure do I find, in the history of my country, the proof of this fact. Slavery, personal slavery, was introduced into this country by that Government whose policy it was to rivet the fetters of political slavery on the freemen of the colonies. It is a vestige of British policy which the storms of the Revolution could not do away, and which had too deep root in the Government to be eradicated by reform. It was an evil of so much magnitude that it became necessary to provide for it in the constitution; but, being an evil, the provisions of the constitution never meant to foster and cherish it in the Government. It was not intended to grow with its growth, and strengthen with its strength; to grow faster, and become stronger, than this Government, which it would do by planting it in the fertile regions beyond the Mississippi. Sir, it is not fairer to say that slavery has been adopted by this Government, because its existence is found in the constitution, than it would be to say that crimes of the deepest dye are sanctioned by this Government, because their existence is recognized and admitted by the constitution. Sir, evil is more frequently the object of legislation than good. For good, and for good men, constitutions and governments are not necessary. They are made for evil, for vicious, and for bad men. The existence of every crime is admitted in a constitution, but it would be an inference, from this, entirely inadmissible, that murder was sanctioned by the constitution, and ought not to be punished by law.

Sir, I understand the constitution to recognize the slave of the South as the property of his master. As such, he is protected by the constitution, and his situation is unalterable by law; but, like all other property, he is liable to the restraints of law. Sir, an honorable gentleman, endeavoring, as I understood him, to reconcile slavery with abstract principle, has said, that any thing is right and proper to be done which the safety of a people may require. Will the honorable gentleman permit us to change a little the direction of that argument, and to bring it to bear more immediately on the question? Suppose, then, the safety of this great Republic to require the restriction of slavery. If the gentleman's argument be a good one, it furnishes at once, on the ground of expediency, all that is necessary with which to support the amendment before the committee. Sir, from the existence of slavery in the constitution and Government, we are not chargeable with crime; but, when we adopt a new constitution, or receive a new constitution recognizing slavery—when we introduce an evil in the Government, then we become chargeable with that evil. Then it is we create the condition of slavery, which before that time had no sanction of a permanent law. Then it is that we are at liberty to inquire into first principles, and to compare the situation of a slave with the natural rights of man.

Sir, on this question I should be willing to rest on the wisdom of those who have gone before me. I should be willing to say, that the construction of the constitution, from the commencement of the Government to this period—the precedents furnished, and the system of legislation, from the much famed ordinance of 1787 almost to the present day, are sufficient lights for me on this occasion. I should say that a system of legislation continued for thirty years—a system which existed before the constitution, and under the constitution producing the happiest political results, is one which I would not readily believe to be founded in usurpation, and tending to the destruction of the Government. Such, sir, is the ordinance of 1787 for the government of the Northwestern Territory; the propositions offered by Congress to the people of Ohio, in the law authorizing them to form for themselves a constitution and State government; the provisions of the constitution of that State inhibiting slavery. Such were the propositions of Congress to the people of Indiana, in 1816, in the law authorizing them to form a constitution and State government. Such was the positive and absolute condition requiring that the constitution of Indiana when formed, should be republican, and not repugnant to the articles of the ordinance of 1787, one of which prohibited slavery; and such were the provisions of the constitution of that State inhibiting slavery. Such, also, were the propositions offered to Illinois on a similar occasion. Sir, for further notice of some of the principles of this ordinance, and for additional links in this chain of legislation, I refer you to the acts of cession of North Carolina and Georgia to the General Government—to the acts of Congress preparatory to the admission of Kentucky into the Union—to the act relative to the Territory of Orleans, authorizing the people of that Territory to form for themselves a constitution and State government. Permit me, sir, to turn the attention of the committee to some of the conditions and restrictions of that act. The proviso to the third section is in these words:

"*Provided*, The constitution to be formed in virtue of the authority herein given, shall be republican, and consistent with the Constitution of the United States; that it shall contain the fundamental principles of civil and religious liberty; that it shall secure to the citizen the trial by jury in all criminal cases, and the privilege of the writ of *habeas corpus*, conformably to the provisions of the Constitution of the United States; and that, after the admission of the Territory of Orleans as a State into the Union, the

laws which such State may pass shall be promulgated, and its records of every description shall be preserved, and its judicial and legislative written proceedings conducted, in the language in which the laws and the judicial and legislative written proceedings of the United States are now published and conducted; and that the river Mississippi, and the navigable rivers and waters leading into the same, or into the Gulf of Mexico, shall be common highways, and forever free, as well to the inhabitants of the said States as to other citizens of the United States, without any duty, impost, or toll therefor, imposed by the said State."

Of the same character is the act prohibiting the taking of slaves to the Territory of Orleans. All this, sir, I cannot believe to have been the offspring of inattention in those who have legislated since the commencement of this Government. I believe, sir, that precedents and constructions of a constitution, are as binding on Legislatures as decisions are binding on the courts of law. And the reason which requires a written constitution, requires that this should be so. Why, sir, is a written constitution necessary? It is necessary that the lines and boundaries be clearly delineated and certainly known. It is necessary that the powers of the Government be defined and rendered certain; and, where doubts, ambiguities, and uncertainties exist, precedents and constructions define and make certain. And, sir, precedents have additional force and efficacy when formed under circumstances calculated to impress a character of intelligence and stability upon them—when formed in the calm of tranquillity and reason, remote from party excitement and political strife. Such, sir, are the precedents to which I have alluded.

Mr. CUTHBERT, of Georgia, followed, and occupied the floor also about an hour against the restriction, when the committee rose, on motion of Mr. JOHNSON, of Virginia, and the House adjourned.

WEDNESDAY, February 16.

Another member, to wit, from New Jersey, CHARLES KINSEY, appeared, produced his credentials, was qualified, and took his seat.

The Missouri Bill.

The House then resumed, as in Committee of the Whole, the consideration of the proposed amendment to this bill.

Mr. JOHNSON, of Virginia, addressed the Chair as follows:

Mr. Chairman: Without occupying your attention by any unnecessary apologies, I shall at once proceed to the examination of the principles involved in the question which now occupies the attention of this committee, and which, it is said, moves the great ocean of popular feeling even to the bed on which for some time it has, with so much tranquillity, reposed. In proportion to the magnitude of the effect is the solicitude of the human mind to trace to its source the cause by which it has been produced. What then, sir, has produced this degree of excitement which gentlemen assure us exists in the nation? Is it the mere question whether the lands of Missouri shall be cultivated by freemen or by slaves? No, sir—no, sir—no. It is a question about power; power—that idol which has a charm, an irresistible fascination, for the human heart. It is a question calculated to test the powers of the Federal Government; to determine how much sovereignty or power is left to the States and to the people.

Gentlemen tell us that there is great excitement in the country, and desire us to be quiet and patient, lest we should add to the excitement. And pray, sir, by whom has this excitement been produced? From what quarter did the proposition come? Where have town and county meetings been gotten up, to manufacture resolutions of thanks to individual members of Congress, to stimulate them to go on with this choice work of excitement? Not in the slaveholding States—not in Virginia; but in the States north and east of the Potomac—in New York and in New England. Do gentlemen believe that they will be permitted to produce a state of general excitement and agitation in the country, and then to avail themselves of the state of public feeling, in order to silence opposition? Gentlemen will excuse us if we cannot imitate the meekness of the lamb, which crops the flowery flood, and licks the hand just raised to shed his blood.

The political doctors of the day, not satisfied with resorting to the different clauses of the constitution, which give to Congress power to make all needful rules and regulations respecting the territory and other property belonging to the United States; to admit new States into the Union; to regulate commerce; to provide for the common defence and general welfare; have most strangely resorted to the 9th section of the 1st article of the constitution, to derive for Congress this omnipotent power of fixing immutably the fundamental principle, by which the people of Missouri and their posterity are to be governed. This section, from the beginning to the end, contains nothing but prohibitions and restrictions on the powers of Congress. The first clause of this section contains the prohibition, on the power of Congress, relative to the migration or importation of such persons as any of the States shall think proper to admit prior to the year 1808. I shall not dwell on the terms migration and importation, which have been so often repeated, during this debate, as to cause them to grate on the ear as harshly and disagreeably as the chains of the convict.

I am very happy that the gentleman from South Carolina, (Mr. PINCKNEY,) a member of the Convention which formed the Constitution of the United States, has given an account of the understanding of the Convention, as to the true import and meaning of these terms, which corresponds completely with the definitions given of them by the most learned and the best speakers who have taken part in this debate, to wit, that migration was applied to all persons

of whatever color or description, who should voluntarily remove to the United States, or any particular State—importation, to all persons who should be brought, by the will of others, into any of the States. All contracts or compacts may grant more or less than the contracting parties designed to convey. If Congress possess no other power over the subject of migration or importation, than what can be derived from this 9th section, it is, to my mind, most perfectly clear, that not a single power is possessed over the subject.

It will be recollected by the committee, that the preceding section contains an enumeration of the powers designed to be intrusted to the Congress of the United States. Would it not be a most singular inconsistency for men of very inferior perspicacity and intelligence to those who framed the Constitution of the United States, who should be engaged in a work of such deep and momentous importance as that of preparing a form of government for a free people, who were jealous and watchful of their liberties, in order to form a government of limited and defined powers which should be perfectly secure from abuse? First, to enumerate, with care and accuracy, the several powers intended to be intrusted to the representatives of the people—yielding to the well-founded jealousy entertained of the propensity of man to abuse delegated powers, that the very singular mode should have been adopted to confer new and more extensive powers, by prohibiting, except under peculiar circumstances, or for a limited time, the exercise of some of the most important powers, expressly delegated, or resulting by necessary and unavoidable implication, from powers thus conferred. Sir, there is no rule of construction; no principle of reason which is not opposed to such a mode of imparting power. I know I may be met with the objection, that it is from this clause that Congress derives the power to suspend the writ of habeas corpus. To which I answer, that Congress derives from this clause no power over the writ of habeas corpus; that it was designed to furnish a rule of construction, to prevent the abuse of power by suspending this writ, on which the personal security and liberty of the citizen so much depended. The people of this country had not long shaken off the yoke of a foreign tyrant. They had had many painful evidences of the abuse of power by the British Government in suspending the great and efficacious writ. But can it for a moment be doubted that Congress has the constitutional power to suspend the writ of habeas corpus? But for the prohibition contained in this section on the exercise of this power, it might have been very much abused. Are not the powers delegated to Congress, in their nature sovereign? Is not the power to declare war a high sovereign power, confided by the people to their representatives? Is not the power to create tribunals inferior to the Supreme Court, expressly given? Is not the whole judiciary of the United States organized by an act of Congress? Are not the forms of writs, and the rules of proceeding, prescribed by Congress? Can it be at all doubtful that the power which, under the constitution, prescribes the rule of action; in other words, gives the law to the courts and the people, when the public interest demands it, can suspend even this highly important and remedial writ? This was known to the Convention; the prohibition was wisely inserted, as a necessary guard to the liberty of the citizen.

Again, it may be contended that, from the 10th section of the same article, which contains nothing but restraints and prohibitions upon the exercise of certain powers by the States, that they, when actually invaded, or in such imminent danger as will not admit of delay, derive the power to keep troops and ships of war, to enter into compacts with each other, with foreign powers, and even to engage in war. Not so, sir. It serves merely as a rule of construction, as an additional evidence of the jealousy of the people of this country of their rights and liberties, and of the propensity of man to abuse power when intrusted to him. Not a right is conferred on the States by this section. The States, in relation to the General Government, and in reference to their defence, occupy the same ground as individuals. Whenever a government is unable to defend the citizen, the right of self-defence, a natural right, recurs to him; so of the States. When the General Government is unable to defend the States, the natural and inalienable right of self-defence reverts to the States, and authorizes them to defend and preserve themselves.

Shall I be permitted to invite the attention of the committee to the amendments to the Constitution of the United States, articles first and second? These articles contain prohibitions of a very singular character, on the exercise of powers by Congress. I confess that I have never seen these articles without regret. I have considered them as disgraceful to the high and lofty character of the American people. I presume, if a convention were now called, to frame a constitution for the people of the United States, that, instead of embodying a few general and fundamental principles, contained in a little pamphlet like this, [holding the constitution in his hand,] it would require a large folio volume to contain the necessary restrictions and prohibitions on the Government against undue and unwarrantable exercise of power. What are the prohibitions in these articles? "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed." I ask the committee to pause for a moment, and to reflect on the character of these prohibitions. What

must have been the jealousy of those who deemed it necessary to guard against the abuse of power, by such restrictions, on a Government of limited, defined, and delegated authority? Under what pretence could Congress dare to interfere with affairs of religion—with the freedom of speech or of the press? Under what state of things could it be presumed to be necessary for the sovereign people of the United States to retain to themselves the poor privilege of assembling peaceably to petition, not their sovereign lords and masters, but their public servants and agents, for a redress of grievances? To what daring usurpations must they have looked, when it was deemed necessary to secure to freemen the privilege of keeping and bearing arms? But, sir, constitutional securities against the abuse of power, of delegated and limited power, seem to be but beautiful and splendid illusions.

The doctrines of humanity and religion have not been much pressed into service by the restrictionists latterly. It is somewhat singular that the passion of humanity should, at the same instant of time, have seized so strongly upon New England and Old England; that this passion should have been so strongly and so singularly enlisted in favor of the black slaves in the United States. Slavery on every other portion of the globe seems to have had no effect on the sympathies of these philanthropists. They have not been excited by the condition of the white slaves of Europe; nor by the sufferings of the white, black, and party-colored slaves of the Indies. The African slave trade—the enslaved descendants of Africans in the United States—are the subjects of peculiar sensibility and interest to those who have recently engaged in proclaiming the doctrines of benevolence and humanity. The peculiar and strongly-marked hostility of Old England to the people of the Southern and Western States, the holders of black slaves, is well known. Let the people of England—of Great Britain—cast their eyes on the map of the earth, and see what a large proportion of its habitable part is covered, and by millions of human beings held in the most wretched state of bondage, by the policy of their own Government. In the West Indies, in Europe, in the East Indies, millions of human beings, presenting every shade of color, and every grade of suffering and misery, testify by their execrations that they are the victims of British policy—of British cruelty and ambition. Yet we find the pages of every public journal in Great Britain filled with exclamations and denunciations against the holders of black slaves in the United States. England, despotic and heartless as she is, still endeavors to preserve the appearance of some regard and respect for the opinions of the world. She still can blush, or appear to blush, by keeping the veil closely drawn. It would not do for her to express much sympathy for white slaves. Her half-fed and badly-clothed subjects in the highlands of Scotland; her enslaved subjects in Ireland; would attract painful attention. The miserable condition of the people in the East Indies, rendered thus miserable by her despotic policy, would intrude itself. The white slaves in every part of Europe, therefore, fail to excite her humanity. The Hungarian peasant, whose state of slavery and subjugation, according to *Bright*, are infinitely more oppressive than that of the black slave in America, excites no portion of her sympathy or humanity. Can England disguise the fact—can her friends conceal it—that she has done more to entail misery on the African race, and their descendants, than all the other powers of the earth?

Humility is said to be the most odious garb in which Pride can be dressed. This may be true, sir; but it is still more odious to see Ambition dressed out in the meek habiliments of religion, with humanity on her lips, whilst the love of power swells her heart. We need take but a glance at the history of the times that are past, to see this same Ambition, covered with the mantle of religion, profaning the God whom it affected to adore; poisoning the stream of human felicity; rioting on the sufferings of the innocent. Shall we look for examples to the land which is sometimes called the land of our ancestors—to Great Britain—to happy England? If we look to the reign of the bloody Mary or the present Regent, we shall see the spirit of ambition arrayed on the side of humanity and religion; how happily, let the blood and the tears of the Catholics of Ireland, shed by the same sabre which has been drawn in defence of the Catholics of Spain, testify. The worship of the Deity has been proscribed to the Catholics at home—to the Catholics of Ireland—whilst the Spanish Catholic has been sustained by the same authority, even at the point of the bayonet, to his altar and his God. And all this has been done in the name of humanity, and under the pretext of devotion to religion!

Sir, I am attached to the Union; but it is a rational attachment. I have no superstitious attachment, either to the Union or any thing else. I am attached to the Union, because I believe it calculated to secure the political rights, tranquillity, prosperity, and happiness, of the people of this country. The moment the Union shall fail to secure and promote these objects I shall detest it, as I would any other species of despotism.

With what propriety can those who, during the Revolution, embarked with us their fortunes and their hopes on board the same ship; who gladly clung to us during the hour of danger, after it stood the storm during the Revolutionary conflict, and rode triumphantly through the tempest during the late war with Great Britain—passing safely over the rough sea which set in from abroad, undisturbed by the ripple added by domestic faction—now that all is peace and sunshine, turn upon us, and upbraid us with the stains and spots of negro slavery; a species of slavery which existed before and during the Revolution in every State in the

Union; which has always existed since the Revolution, in portions of this country, and which they bound themselves, by the most sacred of all compacts, never to disturb? Let the parties to the compact, who have been borne thus safely and happily in this old ship, but adhere to the charter-party—the constitution—I have no doubt she will glide in safety on the wave of time to the end of the present century, prepared, at that period, still to go on with the fairest prospect of a successful voyage to the close of the next century. Permit me to borrow the dying words of the immortal Lawrence, while his eye was glazed by death: honor and glory brightened on his brow—he exclaimed, "don't give up the ship?" I say to you, hold on to the Union—don't give up the political ship—cling to the original charter-party—the constitution; all will be well—the nation will be happy.

Is there a citizen of the United States who has not felt his bosom warmed and animated by the sun of our political confederacy? The sun which on the 4th of July, 1776, rose with such unusual brightness and matchless splendor, which, for more than forty years, has warmed and animated this society, and lighted its path to glory and to happiness. Shall the political balance and harmony of our system be destroyed, and that sun be precipitated, with disastrous ruin, on the bosom of this society, which it has so often cheered and brightened into joy and felicity? I trust that Heaven will avert the sad calamity. That, under the genial influence of this sun, that flowering wreath which has so long bound in concord and harmony this Confederacy, will maintain an imperishable verdure—that its bloom will be perpetual, its fragrance immortal!

Mr. DARLINGTON, of Pennsylvania, addressed the chair as follows:

Mr. Chairman, I wish to submit a few remarks on this question; and I trust the committee will be disposed to extend their indulgence towards me for a few moments, when they recollect that I am not in the habit of trespassing upon their patience in this way. I am very sensible that I shall not be able to do justice even to my own views of the subject; for I am utterly unpractised in the business of public speaking; yet, believing that this is a question of vital importance, not only to the character of this nation, but likewise to its safety, prosperity, and happiness; and believing also, that some erroneous impressions exist, in relation to many of those who advocate the amendments before you, I feel constrained to attempt a few observations.

I shall not presume to undertake an exposition of ambiguous constitutional points, after the very able and learned discussions which we have had from gentlemen who have preceded me. Such an attempt would, in my opinion, be as unnecessary now, as it certainly would be presumptuous in me at any time. I shall, therefore, content myself, at this stage of the debate, with offering some of those views which present themselves to a common understanding. And here, sir, as an American, proud and jealous of our national character, I trust I may be permitted to say, that it is a source of no little mortification to me to see the Congress of these United States, in the 44th year of our independence, seriously sustaining the question whether it be rightful and expedient, without an uncontrollable necessity, to sanction human slavery in the new republics which are to be added to this Confederacy? I had once fondly hoped that such a spectacle would never have been exhibited by us, to gratify the malignant envy of the despots, and their execrable parasites, who outrage the rights of mankind in the Old World, and who sicken at the idea of their conservation here. I had hoped, that we should have persevered with unanimity, as we have hitherto done, in erecting new republics upon the true and genuine principles of our Government, excluding human slavery with the utmost care and solicitude, wherever it should be in our power to do so. The generous and predominant sentiments of the American people, as far as I have had an opportunity to be acquainted with those sentiments, seemed to me to warrant such a hope; and I cannot yet relinquish the idea.

We have been told, indeed—and I feel it my duty, as a Representative of *Republican Pennsylvania*, to notice the remark—we have been told, Mr. Chairman, that, however laudable may be the motives of many who are in favor of restricting slavery, yet that there are political jugglers behind the scenes, who are making use of the proposition and its advocates, as the forlorn hope, and the last desperate effort of an expiring party. Sir, where I am best known, it would be needless to say that I have nothing to do with their views, their efforts, or their hopes; that I have never had any concern or connection with that expiring party. From my earliest youth, upwards, I have been a democratic republican; and I leave it to those who have once belonged to the aforesaid expiring party, if there be any such here, to develop the schemes of their jugglers. I have never been in their secrets; but I cannot help observing, that I see gentlemen who are avowed members of that unfortunate party, zealously engaged in the ranks of our opponents, in endeavors to defeat this amendment. Sir, I do not believe it is a question of party views with any man who loves his country, or feels an interest in its reputation and permanent welfare. But, sir, I have always been taught to believe, that it was no part of republicanism to authorize, or even to connive at, slavery, in the formation of governments, where it could possibly be prevented. I will here frankly confess, too, that it is cause of pain and regret to be opposed to gentlemen for whom I have the highest regard, and with whom it has generally been the pride and the happiness of myself and my colleagues to co-operate. But, on this occasion, I must

pursue a course, however opposite to that of my Southern friends, which a solemn sense of duty renders imperative; and I ask gentlemen to exercise their accustomed liberality towards us. If they think it strange that we, who have generally acted with them, are opposed to them on this subject, we can only say, that we think it equally strange, and we do most sincerely regret, to find them in opposition to us.

The sparse population now in Missouri may not yet perceive the evils of slavery; and may, therefore, be willing to indulge in the dangerous gratifications which it affords, until it is too late. So it was in South Carolina and Georgia. Those States wished for more slaves. They insisted on the privilege (which, unhappily for themselves, and the whole nation, was conceded to them) of importing that description of persons for twenty years after the adoption of the Federal Constitution. But, Mr. Chairman, what do they say now? Do they not see their error? Nay, do they not feel it, and deplore it? And are we never to profit by woful experience? Are we to go on, wilfully, and perverse, blindfold, in this fatal career, until slavery shall be extended over three-fourths of the republics in this Confederacy? I hope not. I pray to God that we may have the virtue and the firmness to restrain its progress, before we are irretrievably lost in the dreadful abyss. Some of the learned gentlemen of the bar, who oppose this amendment, have exercised their ingenuity in subtle distinctions, and technical rules of deduction, borrowed from their profession. They were, no doubt, very applicable to the subject; and, as far as I understand them, I listened with pleasure—I hope with profit. They also borrowed some of their illustrations from my profession; and there, I think, I understood them better. But, Mr. Chairman, I could by no means assent to their correctness, when they came within my province. I trust they were more correct while on their own grounds. Gentlemen compared the evil of slavery to a malignant poison; and they called upon us to *dilute* it, by diffusion, in order to render it more tolerable. Sir, it is a malignant poison, or rather, I would say, it is a malignant disease in the body politic, whose deleterious ravages are extended with all the certainty and inveteracy of specific contagion. It is more loathsome than the small-pox itself; and its desolating influence ought, by all means, to be confined within the smallest possible limits. Would you diffuse contagion in a community, by way of relief? Would you disseminate small-pox, with a view to dilate its malignity, or to mitigate its effects? No, sir, that would be quackery without a parallel in the darkest ages of the profession. Sir, the immortal ordinance of 1787, respecting the territories northwest of the Ohio, was the grand Jennerian discovery in relation to the malady of slavery in our country; and I trust we shall continue to avail ourselves of the blessing. The Congress of 1787 introduced a sort of political vaccination into the constitutions of Ohio, Indiana, and Illinois, which effectually secured those States from the evil; and I am also for extending the same salutary process to our infant sister, Missouri. And why? Is it to injure her? Is it to mutilate or disfigure her? No, sir, it is to secure her health, and to preserve her beauty! Mr. Chairman, should you deem these observations to savor unduly of *the shop*, I must plead, in mitigation of your censure, the precedent set by the gentlemen of the *green satchel*. Much has been said, Mr. Chairman, on both sides, about religion, as connected with this question. I shall not adduce religious arguments in aid of my opinions, because I am well aware that the sacred name of religion has been too often improperly used for political purposes. I have, indeed, heard the benevolent principles of Christianity urged, with unanswerable force, in my estimation, against the further extension of this crying enormity; and yet I have also recently seen, with feelings which I shall not attempt to describe, the holy scriptures cited as authority in favor of the practice of holding mankind as slaves! But I am not disposed to mingle politics with religion. I am for keeping Church and State separate, on all occasions. I cannot, however, help noticing a remark of the gentleman from South Carolina, (Mr. PINCKNEY.) I understood him to say, that slavery could not be inconsistent with religion, because the Deity permits a large portion of the human race to be held in bondage. I am sure the gentleman did not reflect on the extent to which such an argument would go, or he would not have advanced it. Sir, if that doctrine were correct, it would go to sanction every evil that is permitted to exist in society; and we should find little reason to smile, or be surprised, at the quaint determination of the liberty-loving fathers and founders of New England, who, we are told, resolved that they would be governed by the laws of God until they could enact others better suited to their condition. But, sir, I must beg leave to say, that the religion which sanctifies the unnecessary existence of slavery, is not the religion which we profess in Pennsylvania.

It has been said, Mr. Chairman, in opposition to this amendment, that all the citizens of the United States have a right to the territory west of the Mississippi, inasmuch as it was purchased with their money; that, therefore, Congress cannot prevent citizens from removing thither with their slaves and other property. But it is admitted that the people of Missouri may, themselves, exclude slavery. Now, if it be a right which belongs to a citizen of the United States, as such, to remove there with every description of property, how comes it that his slaves may be thus excluded? Can sixty thousand people, by forming a State government in one of your territories, abridge the rights of citizens of the United States? When the public lands are thrown into the market, can these Missourians exclude all purchasers who wish to come there with their slaves? It would seem that they

can; and this, to my mind, conclusively shows that the right to carry slaves into the new States is not a right of a United States citizen, as such. But again: it is generally conceded, that Congress may prohibit slavery in a territory; and yet, if holding and carrying slaves were one of the rights of a citizen as aforesaid, such prohibition would seem to be a more direct infringement of that right, because the territory is the common property of the people of the United States. My inference, therefore, is, that the right to carry slaves into a new State, or territory, is not a federal right. I consider the right, if it may be so called, of holding mankind as slaves, to be a local one, derived from those State institutions where slavery is already permitted.

THURSDAY, February 17.

The Missouri Bill.

The House then again proceeded, in Committee of the Whole, to the consideration of this bill, and the amendment proposed thereto by Mr. TAYLOR.

Mr. SIMKINS, of South Carolina, resumed the debate, and spoke more than an hour against the restriction.

Mr. DENNISON, of Pennsylvania, took the other side, and spoke some time in support of the restriction.

Mr. TYLER, of Virginia, addressed the Chair as follows:

Mr. T. said that he regretted that the state of his health had been such as, heretofore, to have prevented him from taking part in this debate; that, although he had not entirely recovered from that indisposition, yet that he felt himself called on by a sense of duty to express his sentiments on this important question; important, not only as to the actors of this day; important, not only as to the present point of time, but vitally so, as to the permanency of our political institutions, and, of consequence, important to the interests of ages yet unborn. The day has not long passed, said he, in which this country was divided between two great parties; the struggle then was for office. That state of things might be considered as natural to a republic. But party spirit has almost entirely disappeared. When at its greatest height what did it amount to? It gave to you some uneasiness, it is true, in the time of your travail and difficulty, but, under its influence, the country prospered, and our most anxious wishes were consummated. But behold now our situation! You have no longer the man of the North against the man of the North, but State against State—the North and East against the South and West—one moiety of this country arrayed against the other. Sir, the republican of the North has now turned his back on the republican of the South. I call on him to pause; I require of him to remember the days which we have seen together. In times of great peril we have been united; difficulties have vanished before us; and, by our united policy, the high destinies of our common country have been advanced. Say that you triumph on this occasion. Over whom do you triumph? I will tell you: over those who have heretofore been your friends; over those who waded with you through the perils and difficulties of your Revolutionary struggle; over men whose destinies have been united with yours since the dark period of 1798 and 1799; whom, since that period, you have met here as firm and steadfast friends. Poor is the triumph—unworthy the trophy!

Sir, said he, we have heard much of excitement, of irritation. How has it arisen, and who has produced it? Let it be set down in the tablets of your memory that it is the work of the North, and not of the South. A bill is reported in the usual form for the admission of a Territory as an independent State into this Union; and the unusual and extraordinary proposition is made to abridge it in the exercise of an essential right. We have a right to demand the reason of this innovation. Other States have been admitted without this restriction. Why is it that you now assume to yourselves the exercise of this power? Are the people of Missouri less capable of adopting measures calculated to advance their happiness than the people of the other States? Who are they? They are identified with ourselves; they are emigrants from all the States. They have carried with them the very principles which we possess; their stock of intelligence is as great, in proportion to their numbers, as is to be found elsewhere. Be sure, then, that you have the right, and that it is good policy to adopt this limitation on the powers of that people. If you doubt as to either the right or the policy, remember that, as to the first, you cannot satisfy your consciences by the exercise of doubtful power; and that, as to the last, to doubt should induce you to abstain from acting. All experience proves that they who act in obedience to the dictates of a doubtful policy may, by possibility, be right, but that they are much more often wrong than right.

Gentlemen have attempted to show the constitutional right to impose this condition, and in what manner? They have hunted through every section of the constitution; one fixes on one clause, another on another, and by a course of ingenuity almost intangible, have attempted to extract this grand desideratum of powers. For one, on such an occasion, I not only require that you shall reason ingeniously, but that you shall render your power clear and manifest. Tell me not of implied and doubtful powers; against them I weigh the very nature of our Government, and the spirit of our institutions. They are founded on the great principle that man is capable of self-government; that he requires no foreign aid in regulating his domestic concerns. Our Revolution was founded on this principle; England denied to us the right to legislate, except by her special authority; nay, she pro-

claimed the very principle which you now proclaim as applicable to Missouri—the right to bind you by her own system of legislation. To this the American spirit did not bow. It went forth to the battle, in the majesty of its strength, and achieved the victory of our independence. But, sir, the principle which we are called on to adopt, goes, by a sightless distance, farther than England ever dared to go. Her acts of legislation were fleeting and ephemeral; liable at all times to repeal; but we are to legislate, not only for the present day, but for all ages to come. This restriction, if adopted, is unalterable and interminable in its duration. No succeeding generation have any power over it. It constitutes the very essence of the political existence of Missouri. It is the condition precedent, and must, through all future time, attach to the estate. Gentlemen have exultingly read to us the Declaration of Independence. From it they have gathered that which, as an abstract truth, I am not disposed to deny: "that all men are, by nature, equally free, sovereign, and independent." Can this proposition admit of application to a state of society? Does not its fallacy meet you in every walk of life? Distinctions will exist. Virtue and vice, wealth and poverty, industry and idleness, constitute so many barriers, which human power cannot break down, and which will ever prevent us from carrying into operation, *in extenso*, this great principle. Take this principle and preach it up to the monarchs of the world; will they descend from their lofty eminences, or raise mankind to a level with themselves? No, sir, the principle, although lovely and beautiful, cannot obliterate those distinctions in society which society itself engenders and gives birth to. Liberty and equality are captivating sounds; but they often captivate to destroy. England had her Jack Cades and levellers. Look, I pray you, to revolutionary France. These were the principles of that day. Mark the consequences! Murder and rapine stalked over the land, and the guillotine, the work, too, of a philanthropist of that day, was the sad monument of this fallacy. Liberty and equality was proclaimed by Robespierre and his associates, at the very moment when they were enriching the fields of France with the blood of her citizens. Nor was the doctrine confined to political institutions, but, advancing with a daring step, fought even with the Creator, and mocked at the immutable truth of religion.

Turn your eyes also to South America. The throne of the Incas was washed from under them by the tide which flowed in from Spain. The native of the forest was deprived of his freedom, and made to toil for his new master. Then, too, sprung up a philanthropist, who claimed for the Indian an equal rank in creation with the inhabitants of Spain. His claim was admitted, and Africa mourned over the mistake, and her deepest curses may still be uttered against the memory of Las Casas. But, Mr. Chairman, although I do not believe that this principle of equality can be applied to man *in extenso*, yet I love it, and admire it as an abstract truth, and will carry it into operation whensoever I can; and, sir, I call on gentlemen to lend me their aid in the present instance. If we cannot raise the black man up to the level with the white—and that we have not the constitutional power to do so none here have denied—let us raise, at least, the white man up to this level. Extend an equality of rights to the people of Missouri. Place them upon a footing with the people of New York, Connecticut, and of the other States. What are the rights of the people of Connecticut and the other States? They have the right to alter, to amend, to abolish their constitutions. Connecticut has lately done so. Will you deny to the people of Missouri this right? You say to the people of New York, alter your constitution as you see fit in all its parts. Will you say in the same breath to the people of Missouri, you shall not exercise this right in regard to your constitution? Is this your boasted equality? If it be, sir, "I will have none of it." It is base coin, and will not pass current. This is said, too, to be a parental care for Missouri. I am pleased with plain and simple illustrations: would a father act in the way in which you propose to act? His child has attained the age of twenty-one; by the laws of society that child is entitled to an equality of rights with himself; and what would you think of the parent who should say to the child, "Sir, you are now a man, but you shall not exercise the rights of a man, *except upon conditions?*" Would the child submit? Would a kind parent hold such language? No; he would resort to advice; would adopt the course which is recommended by the gentleman from Connecticut, (Mr. FOOT,) in a resolution which he has presented. If he pursued any other, he would be pronounced arbitrary and cruel. Let us avoid such an imputation. Missouri is now full grown; this, your offspring, has attained full age; attempt no longer to trammel her; let her set up for herself, and, although you may advise her, do not attempt to force her. Sir, she will not, and ought not to submit to force; she would disgrace her parent stock if she did so. The proud Roman spirit which inhabits every portion of this country, spurns control. Would you humble this spirit if you could? If you would, you cannot do it; but if you could, your country would have no cause to thank you for so doing.

What will be the consequences, if you persist in this measure? A sectional feeling is already generated; a geographic line is drawn. Tell me not of that policy which shall divide the people of this country by local feelings and prejudices. This is the bane of a Republic—it is the rock which ought to be most cautiously avoided—sir, it is the greatest of all dangers to the union of these States. Take not my poor word for it. Nay, disregard the admonitions of him who has so often been called the Father of his Country. Forget the valedictory address of

WASHINGTON. But can you, or will you, close your eyes to the lights of experience? Remember ancient Rome: she conquered mighty powers; the world obeyed her nod; but she, in the end, conquered herself. The people divided among themselves, and these divisions led to the erection of the Throne of the Cæsars over her prostrate liberty. So, too, with the Grecian republics: united Greece stood up successfully against the mighty power of Xerxes; and the fall of Leonidas was but the precursor of the glory achieved at Marathon and Platæa. But Sparta wished to domineer over Athens, and their intestine feuds opened the channel to that flood of vandalism which deluged Greece, and obliterated all trace of freedom. Such, too, was the fate of the Achaian league. I beseech gentlemen then to pause, lest they produce a similar division of sentiment in this happy land. What else can retard our onward march? What were you fifty years ago? By Europe we were esteemed as little better than savages; nay, dozing philosophers had ventured to pronounce that all animated nature here wore a degenerate aspect. But history has refuted and thrown back this slander in the teeth of those who uttered it. We emerged with great brightness from the struggles of the Revolution. Our prosperity continued to advance. We have emerged from a second conflict, with additional radiance. We bearded the Hercules of the other hemisphere, and we lost naught by the conflict. Our proud banners floated in triumph over the waves. What now is our condition? Kings and potentates court our amity. We are lifted up to a high station among the nations of the earth. Say that our march is not impeded, who can set limits to our glory? Tyre rose a little speck above the ocean, and she was considered strong and mighty. England, with an area scarcely exceeding that of some of these States, controls the destinies of Europe. And what shall be their glory, in comparison with ours? We direct the destinies of a mighty continent. Our resources are unlimited: our means unbounded. If we be true to ourselves, the glory of other nations, in comparison with ours, shall resemble but a tale from the days of chivalry. Our mighty and refulgent sun shall almost obscure, by its radiance, the little stars of their renown. Let us, then, avoid a question like the present: disappoint not these fond hopes. Gentlemen on the opposite side may yield without dishonor. They pursue but a scheme of policy; we are differently situated; we cannot, without violation of our oaths, support this measure. We believe, in our consciences, that the constitution confers on us no such power, For myself, I cannot, and will not, yield one inch of ground. Let me, then, adjure our brethren from the North to come and sit down once more by our side. I call on them to heal the differences which this measure has produced. Your course is palpable and plain. You have two roads before you; take this, and all is harmony and peace; over that, hang doubts and fears. I invoke the Genius of the Constitution to cover and protect us against the evils which threaten us. What if you impose the restriction, and Missouri, instead of submitting, shall form herself into a community and demand admittance, or sever from the Union? Will you then retract? How much more honorable to do it now! Or, do you mean to persist in your object at all hazards, and, if she prove refractory, reduce her to submission? Do you believe that Southern bayonets will ever be plunged in Southern hearts? I know not how this may be, but I require you to pause and deeply to reflect before you have to resort to this extremity.

Mr. RICH, of Vermont, rose and addressed the Chair as follows:

Mr. Chairman: Whilst I consider the present question of greater interest by far than any which has been agitated since the adoption of the constitution, or any other on which I can expect it will ever become my duty to give a vote; and, while I reflect on some circumstances in relation to it, which to me are not a little extraordinary, I feel it to be due, both to the committee and myself, that I should occupy a small portion of your time in explaining my views upon the subject, and my reasons for the vote I am about to give. The fact that, at the last session, every member south of the State of Delaware, and of the river Ohio, gave their votes in favor of an unlimited extension of slavery, while those to the north of those limits gave almost as unanimous a vote against it, has caused me to entertain fears that, either from motives of interest or some peculiar feelings, we had, on the one hand or the other, lost sight of the great principles on which a wise and just legislation is founded.

The circumstance, too, that a large portion of those now opposed to me are the same gentlemen with whom I have acted in times the most difficult and perplexing; whose opinions I have highly approved, and with whose votes my own have been usually recorded; has induced me to give the most attentive consideration to the subject, in all the forms in which it has been presented to my mind, lest it should happen that feelings, perhaps peculiar to myself, might have betrayed my judgment into an error. I have paused—I have considered, and made up my mind upon the most mature deliberation. It is not my intention, sir, to attempt to follow gentlemen who have gone before me, on the opposite side of the question; and, except so far as may be necessary to connect my views upon the subject, I shall endeavor to avoid a repetition of the arguments employed by others on the side I have the honor to advocate. It will be my purpose to attempt to show that slavery does not proceed from the exercise of a legitimate attribute of sovereignty, and that hence, admitting all for which gentlemen contend, as to a want of power in Congress to interfere with "State rights," their constitutional objections must fail them. If, in this part of

my argument I shall be successful, I trust there are few who will object to the expediency of the proposition.

The fact that the word "slave" is nowhere to be found in the constitution, or other words so employed as to convey an idea that the framers of that instrument intended to recognize slavery, has satisfied my mind that, as from a condition of things beyond their control, or that of their country, they could not prohibit it in the then "existing States," and as, for obvious reasons, they were obliged indirectly to admit the fact of its existence, they purposely, and very carefully, avoided the use of any expressions from which, by fair construction, even an argument could be derived in favor of its legitimacy. Consequently, the legality of it must be determined by a reference to the laws of nature and natural rights, and not to the constitution; and to me it is a matter of utter astonishment, that, because the original States were recognized with their existing institutions, some of which had been under an absolute necessity to permit slavery, it should from thence be contended that, on admitting a new State, we have no power to exclude slavery from it, on the ground of its having been recognized as an attribute of sovereignty over which we have no control.

If, then, it be true, that there is danger of domestic violence from the existence of slavery, which I am confident none will deny, I should apprehend that a law, the object and certain tendency of which is to diminish the relative number of slaves in our country, and spread a free white population over the fairest portions of it, must not only be proper, but indispensably necessary, to guard against the occurrence of violence, and preserve the United States in a condition to discharge its duties. All admit that slavery is an evil; and I contend that its extension over the boundless regions of the West, would be an extravagant and unnecessary extension of an evil which must affect every section of the Union, and every class of the community; and, if thus extended, an evil from which our *innocent posterity* will never escape. But we are told that, be the evil what it may, Congress has no power which it can exercise over the subject. And, sir, is it true that, in one-third of a century from the adoption of the constitution, we have made the unfortunate discovery that an evil may threaten our existence, and one too which the people, who have not the means for making a united effort, cannot overcome, and yet Congress, which alone has power to prescribe the national policy and direct its energies, may look on and weep for the calamity, but cannot extend the arm of relief, because the wisdom of our fathers was not sufficient to provide for the exigency? Long, very long, sir, will be the period that will have elapsed before I shall have come to that conclusion.

If it can be demonstrated that a right to hold a human being in slavery beyond its necessity, is among the legitimate attributes of sovereignty, and that slavery is not an evil, I shall cheerfully yield the ground to those now opposed to me; but until this shall be made to appear, I shall adhere to my positions, and shall contend that, as in every country, a right to guard itself against impending dangers must somewhere exist; and as in this country, and upon this subject, it is impossible for it to be exercised with effect, but by the General Government, we ought, on this occasion, as does the honorable Speaker, and many others, now opposed to me, when on the subject of internal improvements, "give such an enlarged and liberal construction to the constitution," as will enable us "to provide for the common defence and general welfare," in the best practicable manner, while no attribute of sovereignty shall be thereby infringed.

Hitherto, slavery has not been so recognized by the General Government, as to cause our national character to be materially affected by it; for, although there are States in the Union which, from the necessity of the case, may be termed slaveholding States, it cannot, with truth, be alleged that, as a nation, we have permitted slavery. But if, under present circumstances, Congress shall solemnly decide that it cannot restrain the unlimited extension of it, and that a want of power to do so results from an unqualified recognition of it by the constitution, our national character will become identified with it; and instead of its being considered, as heretofore, a local malady, and susceptible of cure, it must henceforth be regarded as affecting the whole system, and past the hope of possibility of a remedy. Permit me then to express a hope that gentlemen will yet find it consistent with their views of the constitution and the best interests of their country, to join with us in limiting an evil which cannot at present be removed; and that we may continue our united efforts to cause the blessings which naturally result from the labors of our fathers, to be universally felt and acknowledged; while evils, which are local in their nature, and which cannot be diminished by dispersion, may be made to continue local till removed, and our national character thereby preserved.

Could I feel certain there would be no accession to the present number of slaves, other than by procreation, uninfluenced by an extraordinary demand, a question, differing very widely from the present, would be presented for my decision. But, sir, we must take men and things as they are. Permit it, then, over the boundless regions of the West, and the time will not only never arrive when slavery can be extinguished, not even with the universal consent of the masters, but the absolute certainty that the scenes which have been acted at St. Domingo will, at some period, be acted in this country—will, to my mind, be established beyond a doubt; for "the justice of the Almighty cannot sleep forever," nor has he any "attributes which could take sides with us in such a contest." And I will here remark, that, although this nation is not chargeable with the

original introduction of slavery, yet, unless it shall employ all practicable means to ameliorate its condition, and finally extinguish it, we must, in the view of Heaven, of reason, and common sense, be regarded as trespassers from the beginning, and held answerable for all the direful consequences.

The increase by procreation is capable of being extended almost without limits; and, until man shall cease to make merchandise of his fellow, it will extend with the extension of demand; and you may pass what laws you will against the importation, employ, if you please, the whole army and navy of the country to enforce them, and yet, if the demand be great, the unfortunate Africans will be torn from their country, and, with thousands of the American free blacks, doomed to supply the demand. All our experience proves, that wherever there is a demand for a commodity, it will be supplied; and, if the demand cease, the commodity will disappear. It is by limiting the demand, then, and by that alone, that I can look with the smallest degree of confidence, to a period when slavery and its miseries and misfortunes shall cease to exist, or our country rendered safe against some dreadful catastrophe.

I admit, that to limit the demand, will affect the value of that species of property, (if such gentlemen will call it,) so far as its value depends on its conveniency as an article of merchandise; and so far also, as a right of property can exist in unborn millions of the human race. But I submit to the candor and good sense of that portion of my fellow-citizens who are possessed of it, whether they can reasonably require from us, that we should keep open an unlimited demand, at the expense of our national character, as we believe; in opposition to the influence of religion, and the dictates of humanity; and in a total disregard for the perpetuity of our institutions, and the happiness of all succeeding generations?

I certainly feel no disposition to confine the present slave population within so narrow limits as to render their miserable condition more miserable; and when the country between Pennsylvania on the north, the Gulf of Mexico on the south, the Atlantic on the east, and the Ohio, the Mississippi, and the western boundary of Louisiana, on the west, or so much of it as shall continue to permit slavery, a large portion of which is yet a wilderness, shall become so populous as to render an extension necessary, either for the happiness of the slave or the safety of the master, I would then, and not till then, agree to its extension. But I never can consent, under any circumstances, to give my aid in furnishing new facilities for acquiring and perpetuating a property in human beings.

SATURDAY, February 19.

Maine and Missouri—Senate's Amendments to the Maine Bill.

The House took up the amendments of the Senate to the bill for the admission of Maine; which amendments propose to authorize, by the same bill, the people of Missouri to form a State government, without the slave restriction, but containing a clause to exclude slavery from all the territory West of the Mississippi which lies North of thirty-six degrees thirty minutes North latitude, except the proposed State of Missouri.

Mr. TAYLOR moved that the amendments of the Senate be disagreed to by the House.

Mr. SCOTT, of Missouri, moved that they be committed to the Committee of the Whole, which at present has under consideration the Missouri bill of this House—which motion had precedence of the motion to disagree.

On these motions, and those that are subsequently mentioned, a long and animated discussion took place, of which the following is scarcely more than an enumeration of the gentlemen who spoke, and an indication of the sides they respectively took.

Mr. HOLMES hoped the amendments would not be committed. If they were, it would be some time before they could be acted on, as there were, he believed, at least thirty speeches yet to be delivered on the restrictive proposition now before that committee; and until that proposition was decided, the Committee of the Whole would not take up the amendments of the Senate: in the mean time, the period allowed by the law of Massachusetts (the 3d of March) for the consent of Congress to the admission of Maine would arrive, and all that had been done will be lost. He hoped, therefore, that the House would act promptly on these amendments; separate the two subjects, and give its consent to the admission of Maine, to which no one had objected, or could object, &c.

Mr. CULPEPER was willing to admit Maine unconnected with Missouri: but as they had been united by the other branch of the Legislature, the amendment ought to take the usual course, and be treated with that courtesy and respect which the source of the amendments entitled them to, &c.

Mr. SMYTH, of Virginia, for the purpose of allowing time for the debate on the restriction to be brought to a close before the amendments of the Senate should be taken up, moved that they be postponed to next Monday week; which motion was lost by a large majority.

Mr. S. then moved their postponement to next Monday; which was also negatived.

Mr. EDWARDS, of North Carolina, was in favor of the commitment, because they would consume no more time if they took that course, which was usual and proper, than if taken up in the House, where they would be just as much debated, &c.

Mr. STROTHER was against an immediate decision of the amendments, and in favor of their commitment. The amendments contained new features, which required reflection; that proposing a compromise, for instance. These questions the House could not be prepared to decide at once, because its attention had been exclu-

sively taken up in considering the restrictive question. It was not proper that the House should be driven into the instant decision of questions of such immense magnitude. He wished not any long period of postponement; but was averse to acting hastily, and without deliberation. Mr. S. spoke at some length to enforce and illustrate the opinions stated here in substance only.

Mr. LIVERMORE strongly disapproved of the connection of the bills as they came from the Senate; but he saw something in the amendments which seemed likely to put an end to the disagreeable subject which now occupied the House. He wished the subject separated, and then some course might be adopted similar to the compromise proposed by the Senate, and the matter ended happily and harmoniously. He argued earnestly in favor of the claims which Maine had to admission without delay, and against a course which would, by allowing the time to which she was limited to pass by, and thus her reasonable expectations be defeated. He deprecated the feelings of irritation which such an unkind course would produce in her citizens, &c.

Mr. WHITMAN opposed the commitment with much earnestness and at considerable length. He disapproved most pointedly and emphatically the connection of the bills, and argued in favor of a prompt decision of the question. He felt as one personally interested, (being a member from the District of Maine,) and confessed that his feelings were stronger than he could find proper language to express them in, and he could scarcely trust himself to speak on the subject of the amendments.

Mr. STORES observed that it was well known that no man was more in favor of a compromise of the unhappy subject than himself; but even this he would not agree to on compulsion. He was opposed to the commitment of the amendments; it would be of no utility, as the question now before the committee would be first decided before the amendments would be taken up; and then a bill would have previously passed on the same subject. The subject of the amendments was a legal one, he admitted; but the object of the connection was to coerce this House, by operating on those members particularly interested in the admission of Maine into the Union. This course he thought was disapproved by the House, and the proper way to show it was by a prompt, a very prompt, rejection of the amendments. Such was the course taken by the House on a former occasion, when an amendment was inserted in an appropriation bill by the Senate, providing for brevet pay, which the House had previously stricken out. Mr. S. repeated that he was in favor of the compromise, but he would not give up the right of giving a distinct and unshackled vote for the admission of Maine.

Mr. SIMKINS conceived it would be extremely wrong not to allow some time to reflect on this subject. The amendments were long, and contained numerous provisions, some of them of the highest importance. How were they to be understood from the single reading of them by the Clerk? He wished them to be printed, and time allowed to examine and consider them. He trusted that the majority, because they had the power, would not force members at once to decide on so important a matter without knowing scarcely on what it was they were to vote. The Senate had deemed the two subjects compatible, and had thought proper to join them: it was not proper by any means to ascribe improper motives to the Senate for so doing. Respect for the Senate required that their amendments should not be treated with so much precipitation and so little deference. He was in favor of the commitment.

Mr. GROSS, of New York, said he was glad of an opportunity of stating, in his place, what he thought of the conduct of the Senate in this affair; and proceeded to remark that he thought it did not deserve the respect of this House, but was stopped by the Speaker, as such expressions, here, applied to the other branch of the Legislature, were out of order. Mr. G. then remarked, that, come from where it might, the amendment was an attempt to coerce the members of this House, and he decidedly disapproved of it, &c.

Mr. WALKER, of North Carolina, made a few remarks in favor of the commitment, which were not at all heard.

Mr. MERCER supported the right of the Senate to annex any amendment to a bill from this House, and that the House had no right to know the motives of the Senate, merely from the *prima facie* evidence of the amendments. It was not proper to allude to them in debate, much less to impute improper ones to that body. The course adopted by the Senate in this instance was justified by the practice of the British Parliament, from which our rules of proceeding are drawn—instances of which Mr. M. mentioned. He could imagine very strong reasons, of the most honorable character, for the amendments of the Senate, but it was not right that he should advert to them; and he could not enter into the examination of views, such as had been imputed by others. If the proposition from the Senate be, as was believed, the olive branch of peace on the most momentous question that had ever agitated the councils of the nation since the foundation of the Government, was it proper thus to treat it? As to the case stated by Mr. STORES, the present one bore no sort of analogy to it: that was a question on the right of the Senate to originate in a money bill a clause making an appropriation. In this case, if the proposition from the Senate should happily put to rest the divisions in the House, and heal the wounds inflicted throughout the nation by this question, they would deserve immortal honor.

Mr. SERGEANT was against the commitment, and in favor of an immediate decision on these amendments. Without speaking or acting im-

properly towards the Senate, respect for themselves required the House to act promptly. Mr. S. opposed the amendments at some length. One reason for it was, that the bill came with too much; they did not belong to the bill; it proposed to connect with Maine all the questions belonging to the Missouri subject, and, what was more, connected with Maine the subject called a *compromise*. Could gentlemen seriously call this an amendment? They might call it what they pleased, but it would be just as proper to annex to it a pension law or a bankrupt bill, and call it an amendment. Whatever the object of this amendment, it would appear to have an improper end in view, and such would be its effect on the public mind, &c.

Mr. SMITH, of North Carolina, was in favor of the commitment, and (as well as he could be heard) spoke to show that the amendments were not improper; that the course taken by the Senate was not unusual or unnatural; and that, whatever the decision on them here, he doubted whether that body would recede.

Mr. SMITH, of Maryland, opposed the commitment as useless, and argued to show that it would not save time: that it would be attended with inconvenience, without producing any benefit, &c.

Mr. BROWN, of Kentucky, spoke at considerable length, and very warmly, against the proposition to force members into an instant decision of this important question. He maintained the justice and fairness of allowing time for an examination of the amendments, and for preparation for a decision; and condemned strongly the attempt to coerce the House into an immediate vote on a subject so little understood and so important.

Mr. MCLANE, of Delaware, was in favor of committing the bill, not because he was in favor of uniting Maine and Missouri, for he was decidedly opposed to the union; and if he supposed the commitment would retard the admission of Maine, he should be opposed to it; but this could not be the effect; it would be decided as soon as the question now under consideration could be. He had opposed the union of the bills when the subject was originally before the House; he was still opposed to it, because he deemed it a dangerous mode of legislation, and would vote to disunité them, whenever the subject should come distinctly before the House. But the union of Missouri with Maine was not the only amendment the Senate had made: they had introduced another of equal, if not of greater importance—that which prohibited the introduction of slavery into the Territories. He was in favor of this proposition; he presumed all the advocates of restriction would also be in favor of it. It was an amendment of vast importance, which might as properly be introduced into the bill for the admission of Maine as in one for the admission of Missouri, or in a distinct bill. It was because this was an important subject that he wished it to be duly weighed and considered. It also embraced the basis of a compromise, which had been adjusted in the Senate, after great deliberation. Desirous as he was of quieting public excitement, on some principle of compromise, he hoped time would be afforded to test its practicability. If Missouri should be stricken from the bill, this amendment, being a distinct proposition, would remain, and deserved to be considered. If he were now forced to vote upon the rejection of the amendments of the Senate, opposed as he was to the union of Maine with Missouri, he should be compelled to vote against both provisions, and thus aid in defeating a compromise which he was so anxious to effect. He hoped, therefore, that the bill would be committed.

The question was then taken on committing the bill and amendments, and decided in the negative—yeas 70, nays 107.

Mr. SMYTH, of Virginia, then moved to lay the amendments on the table, and print them, that the House might at least see what it was called on to decide; which motion was also lost—yeas, 77, nays 96.

The question recurring on the motion to disagree to the amendments—

Mr. SIMKINS moved that the amendments be postponed to Tuesday, and be printed; declaring that he was wholly unprepared at present to vote on the subject; and supported his motion in a speech of some length. The motion was assented to by Mr. TAYLOR, and supported by Messrs. RHEA, CULPEPER, STEVENS, STORRS, and BALDWIN; the last-named gentleman, among other remarks, denying that the amendment called a *compromise*, could be called so with propriety, inasmuch as it was inconsistent with the constitution, and the whole course of legislation for thirty years.

The motion to postpone was opposed by Messrs. WHITMAN, LIVERMORE, and HOLMES, because they were opposed to any delay, as it might endanger the fate of the Maine bill, which they desired to have separated from the other subject immediately, and disposed of as justice and fairness required.

The question being taken on postponing the bill to Tuesday, and printing the amendments, was carried by a large majority; and the House adjourned.

TUESDAY, February 22.

Commodore Perry.

Mr. LOWNDES offered the following resolution for consideration:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of extending to the widow of Captain Oliver Hazard Perry, the provision which is now made by law for the widows and children of naval officers who die from wounds received in action.

Mr. L. observed that it was conceived that the family of Commodore Perry was embraced by the existing laws which provide for pensions, as it was not to be supposed the gene-

rosity or magnanimity of Congress did not intend to comprehend such a case; but as this appeared to be doubted, he had deemed it proper to propose the inquiry which he had submitted.

The resolution was adopted *nem. con.*

Mr. RANDOLPH rose to offer a motion. He believed it would be very difficult for any member of this House—certainly it was not possible for him—to keep pace with the honorable gentleman from South Carolina, (Mr. LOWNDES,) in the race of honor and public utility. That gentleman had, by the motion which had just been adopted, anticipated him, in part, in a proposition which he (Mr. R.) had intended on this particular day, for reasons which would suggest themselves to the mind of every one, to offer to the House. When he had this morning heard the tower-guns announcing the return of the birth-day of WASHINGTON, Mr. R. said the thought had come across his mind—in reference to certain proceedings in this House and elsewhere—"this people draw nigh unto me with their lips, and honor me with their mouth, but their hearts are far from me." His purpose, Mr. R. stated, was to make a motion in relation to the wife and children of the late Oliver Hazard Perry, of the United States Navy. It was his opinion, Mr. R. said, whether correct or not, that the country owed more to that man, in its late contest with Great Britain, than to any other whatever, always excepting Isaac Hull—that man who had first broken the *prestige*, the cuirass of British invincibility. He had frequently, Mr. R. said, heard persons of that country speak in terms of admiration of the achievement of Captain Hull, in his escape from a fleet of the enemy in the Constitution frigate; of the admirable seamanship which he had displayed; of his professional skill; but he had never heard any of them speak with cordial applause of his achievement with the Guerriere, that proud frigate of the first class which had carried her name, in defiance, emblazoned in large letters on her foretopsail, that the American *picaroons* might beware of His Majesty's ship, and make no mistakes. That was an event on which they were generally silent, or their praise very faint. Mr. R. believed that Old England would consent that forty Pakenhams, with all their legions, should have been buried in the alluvial lands of the Mississippi, to take back the single action of the Guerriere; because that action had done more than any thing else to open the eyes of Europe, and dispel the illusion of British supremacy on the ocean. Next in glory to the victory over the Guerriere, was that on Lake Erie, by the gallant Perry; and this, Mr. R. said, was not inferior in lustre to any event in the naval history of England, from that of La Hogue, under Admiral Russell. One, said Mr. R., has shown us the way to victory with single ships, the other with fleets. Shall we suffer his family to melt up the plate that was given to him by his countrymen, by corporate and legislative bodies, in compliment to his gallantry, to buy bread? He would say no more, but at once offer the following resolution:

Resolved, That provision be made by law for the support of the family of the late Oliver Hazard Perry, Esq., of the United States Navy, and for the education of his children.

Mr. LOWNDES concurred with great cordiality in Mr. R.'s resolution. He felt in its fullest force the sentiment of gratitude to the man who had first taught his country to hope for victory by fleets, as well as by single ships; and Mr. L. said it was only because he had supposed that the House would not at this time give its approbation to a proposition such as Mr. RANDOLPH had offered, that he had contented himself with the very inferior one which he had submitted.

Mr. HAZARD, of Rhode Island, did not rise to say much on a subject which he said he could scarcely trust himself to speak on at all. But he rose to offer his thanks to the gentleman from Virginia and the gentleman from South Carolina, in behalf of the name of Perry—to thank them in behalf of the State which gave him birth—to thank them in the name of his amiable widow—to thank them in the name of their common country.

The resolution was adopted; and, on motion of Mr. RANDOLPH, a committee of three was appointed to bring in a bill in pursuance thereto.

Maine and Missouri.

The House resumed the consideration of the amendments of the Senate to the Maine bill, (proposing to incorporate therein the Missouri bill, embracing the amendment called the compromise.)

The amendments having been read—

Mr. RANDOLPH delivered a speech of more than two hours' length, against the feature of the amendments of the Senate, which propose to exclude the further migration or transportation of slaves into any of the Territories of the United States north of 36° 30′ north latitude.

Mr. RHEA commenced a speech; but, from the lateness of the hour, after two or three unsuccessful divisions on motions for the purpose, the House adjourned.

WEDNESDAY, February 23.

Maine and Missouri.

The House then resumed the consideration of the amendments of the Senate to the bill for the admission of Maine into the Union.

Mr. RHEA spoke about an hour on the subject, particularly on the inapplicability of the ordinance of 1787 to the territory west of the Mississippi.

A division of the question was called for; and, on the question, Will the House disagree to so much of the said amendments as is comprised in the words following, to wit:

"And to enable the people of Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States:

"SEC. 2. *And be it further enacted*, That the inhabitants of that portion of the Missouri Territory included within the boundaries hereinafter designated, be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they shall deem proper:"

It passed in the affirmative—yeas 93, nays 72.

So the House disagreed to the amendment of the Senate which proposed to annex the Missouri bill to the Maine bill.

The question was then taken on disagreeing to the residue of the amendments of the Senate, (the details of the Missouri bill,) with the exception of that which embraces what is familiarly called the *compromise* amendment, and decided also by yeas and nays, in the affirmative—for disagreeing 102, against it 68, as follows:

YEAS.—Messrs. Adams, Allen of Massachusetts, Allen of New York, Anderson, Baldwin, Beecher, Bloomfield, Boden, Brown, Brush, Buffum, Butler of New Hampshire, Campbell, Case, Clagett, Clark, Crafts, Cushman, Darlington, Dennison, Dewitt, Dickerson, Dowse, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Fay, Folger, Ford, Forrest, Fuller, Fullerton, Gross of New York, Gross of Pennsylvania, Guyon, Hackley, Hall of New York, Hazard, Hemphill, Hendricks, Herrick, Hibshman, Hill, Holmes, Hostetter, Kendall, Kinsey, Kinsley, Lathrop, Lincoln, Linn, Livermore, Lyman, Maclay, McLane of Delaware, McLean of Kentucky, Mallary, Marchand, Mason, Meech, Meigs, R. Moore, S. Moore, Monell, Morton, Mosely, Murray, Nelson of Virginia, Parker of Massachusetts, Patterson, Phelps, Philson, Pitcher, Plumer, Rich, Richards, Richmond, Rogers, Ross, Russ, Sampson, Sergeant, Silsbee, Sloan, Southard, Stevens, Storrs, Street, Strong of Vermont, Strong of New York, Tarr, Taylor, Tomlinson, Tompkins, Tracy, Trimble, Upham, Van Rensselaer, Wallace, Wendover, Whitman, and Wood.

NAYS.—Messrs. Abbot, Alexander, Allen of Tennessee, Archer of Maryland, Archer of Virginia, Ball, Barbour, Bayly, Brevard, Bryan, Burton, Burwell, Butler of Louisiana, Cannon, Cobb, Cocke, Crowell, Culbreth, Culpeper, Cuthbert, Davidson, Earle, Edwards of North Carolina, Ervin, Fisher, Floyd, Garnett, Hall of North Carolina, Hardin, Hooks, Johnson, Jones of Tennessee, Kent, Little, Lowndes, McCoy, McCreary, Mercer, Metcalf, Neale, Newton, Overstreet, Parker of Virginia, Pinckney, Quarles, Rankin, Reed, Rhea, Ringgold, Robertson, Settle, Simkins, Slocumb, Smith of New Jersey, Smith of Maryland, B. Smith of Virginia, A. Smyth of Virginia, Smith of North Carolina, Strother, Swearingen, Terrell, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Warfield, Williams of Virginia, and Williams of North Carolina.

The question was then taken, Will the House disagree to the said ninth section, (being the last of the said amendments,) contained in the words following, to wit:

SEC. 9. *And be it further enacted*, That, in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, excepting only such part thereof as is included within the limits of the State contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted, shall be, and is hereby, for ever prohibited: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed, in any State or Territory of the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid:

And also determined in the affirmative—yeas 159, nays 18.

FRIDAY, February 25.

The Missouri Bill.

The SPEAKER having announced the orders of the day—

Mr. HILL, of Massachusetts, rose, and said he did not now wish to consume the time of the House upon a subject, the progress of which seemed to be stamped with all the marks of eternity. But he rose merely to move that the Committee of the Whole be discharged from any further consideration of the Missouri bill.

Mr. LOWNDES said, that if the gentleman from Massachusetts insisted on this motion being put, he would cheerfully vote in favor of it; yet, if he would consent to withdraw his motion for the present, to give two or three gentlemen more an opportunity to speak to-day, he thought it might be a saving of time, and the motion could be renewed again, if necessary, to-morrow morning, which would then, he thought, receive a decided support.

Mr. HILL acquiesced in this suggestion, and withdrew his motion.

The House then again went into a Committee of the Whole, Mr. COBB in the chair, on this bill.

Mr. ERVIN, of South Carolina, took the floor, and spoke at considerable length against the restriction.

Mr. SCOTT, of Missouri, said, it had been erroneously stated that Missouri demanded that which she ought more modestly to sue for as a matter of special grace and favor. In the remarks which he should now have the honor to submit on the subject, he did not wish to be again misunderstood by the honorable gentleman from New York, (Mr. TAYLOR,) or any other quarter. Mr. S. did not sound the tocsin of alarm—he did not beat up for volunteers in rebellion against the constituted authorities of his country—but he should degrade, counteract, and even misrepresent, the wishes of the people of Missouri, was he to press their claim for admission into the Union by obsequious supplications and prayers, suited alone to the taste and palates of sycophants or of tyrants. Sir, said Mr. S., Missouri asks, in the true American character of moderation and firmness, your assistance to organize her State government, as preparatory to her admission into the Union.

She did not sink herself beneath notice, by an affectation of inferiority, meekness, dependence, and submission, which she did not feel, nor did she, by any rash declarations, or warlike attitudes, authorize the ungenerous insinuations that there was in that people a moral unfitness for self-government. There had been no exhibition of such a spirit of boisterous domination as ought to induce you to shun their company, or to avoid associating with them as a member of the federal family. Missouri presented herself with the Constitution of the United States in one hand, and the treaty of cession in the other, and asked admission into the Union. She exhibited, as preliminaries, a long apprenticeship under the guardianship of your laws; a moral capacity and fitness in the people for self-government; a devoted attachment to the constitution and laws of the land; a firm and fixed republican character; and numbers sufficient to entitle her to two Representatives. She did not attempt to deceive Congress in reference to her territory, or the number of her inhabitants; she presented an actual map of the surveys of the country, by which a calculation might be made, within a few miles, of the exact extent of her boundaries; she produced documents in support of her population, sufficient to satisfy the most conscientious and scrupulous; she was not driven to the subterfuge of counting her citizens and travellers in every county through which they might pass, to make out her pretensions to admission, and then, to take off the odium of this deception, to christen the transaction with the name of pious fraud, because the great object in view was to jump into the Union, and obtain the blessed privilege of dictating to her superiors and her neighbors. Mr. S. regretted that this question had produced so much excitement; he, however, disclaimed the responsibility of ultimate measures, because he was acting only on the defensive, and was not one of the proposers or supporters of the proposition that had caused it. If it was of recent date, he would entertain some hopes of its short duration. But, for more than one year, this question had agitated many sections of this Government; it had mixed and mingled with every topic; it had operated on, and even controlled, elections. He had seen one instance of its powerful influence in an adjoining State, and he feared similar sacrifices had or would be made in other quarters, of honorable men, for their integrity and attachment to the principles of the constitution.

After an extended argument against the right and expediency of the restriction, Mr. S. concluded with saying,

That this was not a question "whether slavery should exist," but merely where should the slaves, now in America, be permitted to reside? The mistake of this proposition seemed to have measurably produced all this contention and strife. Was this an original question, whether we should subject a portion of our fellow-beings to a state of servitude and degradation, he believed that the people of Missouri, from their innate love of liberty, equality, and independence, would be among the first to declare against the principle. But the absolute condition of that description of persons did exist, and actually had existed long before even the first settlements were formed in Missouri; and if there were any advantages to be derived from holding that description of property, the people of Missouri, as citizens of the United States, had the right, in common with others. Congress, in deciding that they should not be introduced, as one of the species of property under our constitution and laws, were doing that section of country a wrong, because it placed them, in powers and privileges, below other States in the Union; and when a wrong was meditated on any people they alone were the judges; such had been the current doctrine, and so considered by the United States themselves, when they determined on that course with regard to Great Britain, which led to American independence. If gentlemen were not predetermined to fix this restriction on Missouri, and would take the trouble to mount up to first principles, they would find that it was not a mere question of power, growing out of the construction of the constitution, but that there was another law, paramount to all written rules and regulations, that operated on and controlled the question—it was the law of man; it was his eternal and indefeasible right to self-government. It was an idle calculation to believe that the State of Missouri would lose sight of this law of man in adjusting their constitution or contending for their rights. It was true that the people of Missouri had been a long time in pupilage and wardship, but they had never been in bondage. Although derived from Spain, the citizens were not the poor remnant of Spanish despotism—the great portion of them had been in a land of liberty; they are your relations, your friends, your brothers; each State in the Union had some interest there; and they were freemen, who knew how to appreciate, maintain, and defend their rights. A maxim might with great propriety be here applied; it was, that whenever illegal or improper objects were to be attained, that they drove the supporters of them to improper and illegal means to effect the object. The Parliament of Great Britain, although deemed omnipotent, never had, in reference to the colonies, attempted any thing that would bear a comparison with this restriction, though the powers of Congress were express, limited, and defined. The force of precedent had been illustrated in the course of this debate. Let this restriction prevail, and then *States beware!* for it was thus that a tyrant, about to subjugate the liberties of a people, selected an obscure individual, whose fate would excite no alarm, and, in his destruction, fixed an example, to which, in turn, the most lordly were taught to bow. And thus Congress selected a distant

and feeble Territory, whose murmurs could be but indistinctly heard, just o'er the verge of Heaven; and in the sacrifice of its rights, and prostration of its authority, established a precedent that saps the foundation of State authority, and produces consolidation, or, in the end, disunion.

Mr. S. remarked that he had much more to say, but, from indisposition and exhaustion, was unable to proceed; the committee were also fatigued; the question of expedience and other topics he had left entirely untouched; but, from the labored and able investigation the subject had received, he was willing to trust the rights, the happiness, the fate of Missouri, with the House. Her present prosperity and future greatness depended on the decision; if gentlemen could take the power, he entreated them not to exercise it; the affections of the people of Missouri had been put to many severe trials in the course of eighteen years, but they could not endure forever; and he appealed to gentlemen's unquestionable knowledge of right and native love of justice, not to add this restriction to the list of grievances of that people.

Mr. MEIGS, of New York, spoke for some time against restriction.

Mr. ADAMS, of Massachusetts, made a few remarks in favor of the restriction.

Mr. TUCKER, of Virginia, said he should not have ventured to trespass further on the time of the committee, if his objections to the proposed amendment, particularly as to its expediency, had been anticipated by those who had gone before him in the debate. There is, indeed, said he, Mr. Chairman, something peculiar in every man's views of the subject, who exercises his own powers of reflection, and it is only by looking at it under these different phases that we can form a just estimate of its bearings and dimensions. I am the more desirous of speaking on the policy of the proposed restriction, because a distinguished member from Pennsylvania (Mr. SERGEANT) has said that Virginia had no interest in this question. Sir, I think I can show, to every unprejudiced mind, that it threatens, not only the peace and welfare of Virginia, in common with all the slaveholding States, but their very political existence.

Mr. T. then spoke at great length in support of the positions he had taken.

When Mr. T. had concluded—

Mr. SMITH, of Maryland, rose and observed, that a large number of his constituents had expressed their opinion in opposition to the opinion which he was known to entertain on this subject, and it might be presumed that he desired to deliver his reasons for the vote which he should give. But, Mr. S. said, the public business was suffering by the protraction of the debate; the members are weary of it; every one's opinion was made up on it; and he was unwilling to consume the time of the committee by any remarks on the question. He therefore forbore, and he hoped the question would be taken.

Mr. WALKER, of North Carolina, rose then to address the committee on the question; but the question was called for so clamorously and so perseveringly, that Mr. W. could proceed no farther than to move that the committee rise.

The committee refused to rise, by almost a unanimous vote.

Mr. BEECHER, of Ohio, then stated that it was his wish to be heard on the question; and, if not allowed an opportunity of speaking in committee, he should do so in the House, unless prevented by force; and he moved that the committee should then rise.

This motion was lost by a very large majority.

Mr. SMITH, of North Carolina, said the course he was about to propose was unusual, and perhaps without precedent—that was, to call the previous question in Committee of the Whole; but, as he conceived the motion would be sustained by the rules and orders of the House, and to put an end to any further debate on the amendment, he moved for the previous question thereon.

The Chair conceived that the motion was not in order.

Mr. RANDOLPH asked leave of the mover of this course, to suggest to him a less invidious mode of getting at his object. If the committee should consent to rise, and the House would refuse it leave to sit again, the question would then be in the House; and that was the only way, Mr. R. said, that the committee, worn down by what was called a discussion, could be relieved from it. He hoped, wherever possible, that the previous question should be dispensed with; but if some mode were not devised of getting clear of this debate, he believed he should become reconciled to it—though a man convinced against his will was of the same opinion still.

Mr. CLAY (Speaker) observed, that the *previous question* would not effect the object of the gentleman who moved it; because its effect would be to put aside the question on the amendment altogether; and though that might be a very happy effect, yet it was not, he presumed, desired by the committee, and he thought it fair to warn gentlemen of an effect that he supposed was not anticipated.

Mr. SMITH, of North Carolina, though he had felt himself at entire liberty to make a motion, intended to stop the debate, inasmuch as he had not troubled the committee with a speech on the subject; yet, as the effect would be what had been stated by the Speaker, he would withdraw his motion.

The question was then taken on Mr. TAYLOR'S proposed restriction, and agreed to, by from 12 to 18 votes.

Mr. TAYLOR then moved that the committee rise, as he presumed it was not prepared to go into the various details of the bill this evening, several of which were important, and would give rise to many questions.

This motion was opposed by Mr. SCOTT and

Mr. STROTHER, and supported by Mr. SERGEANT. It, however, finally prevailed, and

The committee obtained leave, ayes 90, to sit again; and, about five o'clock, the House adjourned.

SATURDAY, February 26.

The Missouri Bill—Compromise.

The order of the day being announced from the Chair, being the unfinished business of yesterday—

Mr. HILL renewed the motion which he made yesterday, that the Committee of the Whole be discharged from the further consideration of the Missouri bill; but the motion was not sustained by a majority of the House.

The House then resolved itself into a Committee of the Whole, on the said bill.

Mr. STORRS, of New York, moved to amend the bill by inserting, in the 4th section, (immediately preceding the restrictive amendment adopted yesterday,) the following proviso:

"That in all that tract of country ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, excepting only such part thereof as is included within the limits of the State contemplated by this act, there shall be neither slavery nor involuntary servitude, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any State or Territory of the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid."

Mr. STORRS supported his amendment in a speech of considerable length; embracing, incidentally, in the range of his remarks, an examination of the right of imposing the slavery restriction on Missouri.

Mr. RANDOLPH next rose, and spoke more than four hours against the amendment, and on the topics connected with it, the subject of restriction, &c. When he had concluded, (about half-past four o'clock,) an ineffectual motion was made for the committee to rise.

Mr. BEECHER, of Ohio, then took the floor, and proceeded a short time in a speech on the subject, when he gave way for a motion for the committee to rise, which prevailed, and about five o'clock the House adjourned.

MONDAY, February 28.

Maine and Missouri.

A message was received from the Senate, by their secretary, announcing that the Senate *insist* on their amendments to the bill for the admission of Maine into the Union, which had been disagreed to by this House.

Mr. TAYLOR moved that the House *insist on its disagreement* to the said amendments.

Mr. COBB inquired of the Chair whether the question could be divided so as to be taken separately on each principle embraced in the amendments.

Mr. LOWNDES remarked, in substance, that it appeared to him there would be much difficulty in coming to any conclusion on these amendments in which the two Houses would concur; that he thought therefore that it would be better to lay them aside until this House had matured and finally acted on the bill now before it, for the admission of Missouri, and ascertained how it was received by the Senate, &c.; with this view he moved that the amendments be laid on the table.

On this question the House divided, and the motion was negatived—yeas 74, nays 85.

Mr. CULPEPER, then, after some remarks to show the propriety and necessity of mutual forbearance on a question so important and delicate; and from the hope, that, by acting conclusively on the bill now before the House and sending it to the Senate, all difficulty would be gotten over, &c.—moved that the amendments be postponed until to-morrow.

This motion was opposed by Mr. HOLMES, and Mr. WHITMAN, who were averse to delaying a final decision on these amendments with which the admission of Maine was connected, and which they wished to separate from it as promptly as possible.

The motion to postpone the amendments was negatived without a count.

The main question then recurring, it was so divided, on motion of Mr. BUTLER, of Louisiana, as to be first taken on insisting on the disagreement of this House to the first eight sections, (connecting with the Maine bill provisions for the admission of Missouri,) and was decided, by yeas and nays, as follows:

YEAS.—Messrs. Adams, Allen of New York, Bateman, Beecher, Boden, Brush, Buffum, Butler of New Hampshire, Campbell, Case, Clagett, Cook, Crafts, Cushman, Darlington, Dennison, Dewitt, Dickinson, Dowse, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Fay, Folger, Foot, Ford, Forrest, Fuller, Gross of New York, Gross of Pennsylvania, Guyon, Hackley, Hall of New York, Hazard, Hemphill, Hendricks, Herrick, Hibshman, Heister, Hill, Holmes, Hostetter, Kendall, Kinsey, Lathrop, Lincoln, Linn, Livermore, Lyman, Maclay, Mallary, Marchand, Mason, Meech, Meigs, R. Moore, S. Moore, Monell, Morton, Mosely, Murray, Nelson of Massachusetts, Nelson of Virginia, Parker of Massachusetts, Patterson, Phelps, Philson, Pitcher, Plumer, Rich, Richards, Richmond, Rogers, Ross, Russ, Sampson, Sergeant, Silsbee, Sloan, Smith of New Jersey, Southard, Stevens, Storrs, Street, Strong of Vermont, Strong of New York, Tarr, Taylor, Tomlinson, Tompkins, Tracy, Upham, Van Rensselaer, Wallace, Wendover, Whitman, and Wood—97.

NAYS.—Messrs. Abbot, Alexander, Allen of Tennessee, Anderson, Archer of Maryland, Archer of Virginia, Baldwin, Ball, Barbour, Bloomfield, Brevard, Brown, Bryan, Burton, Burwell, Butler of Louisiana, Cannon, Cobb, Cocke, Crawford, Culbreth, Culpeper, Cuthbert, Davidson, Earle, Edwards of North Carolina, Ervin, Fisher, Floyd, Fullerton, Garnett, Hardin, Hooks, Johnson, Jones of Virginia,

Jones of Tennessee Kent, Little, Lowndes, McCoy, McCreary, McLean of Kentucky, Mercer, Metcalf, Neale, Newton, Overstreet, Parker of Virginia, Pinckney, Pindall, Quarles, Randolph, Rankin, Reed, Rhea, Ringgold, Robertson, Settle, Shaw, Simkins, Slocumb, Smith of Maryland, B. Smith of Virginia, A. Smyth of Virginia, Smith of North Carolina, Strother, Swearingen, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Warfield, Williams of Virginia, and Williams of North Carolina—76.

The question was then stated on insisting on the disagreement of the House to the remaining amendments of the Senate, (being the 9th section, embracing the compromise principle.)

Mr. LOWNDES wished to remark, before this question was taken, that, although he should always be ready to vote for such a proposition, substantially, when presented to him, combined with the free admission of Missouri; yet, as the amendment relative to Missouri had been disagreed to, it would be useless to retain this amendment in connection with the Maine bill alone, and, as he should therefore now vote against retaining it, he wished his motive to be understood.

Mr. MCCREARY made a remark or two to the same effect; when—

The question was taken on insisting on the disagreement of the House to the 9th section of the Senate's amendments, and carried—yeas 160, nays 14.

So the House insisted on its disagreement to the whole of the Senate's amendments to the Maine bill; and the Clerk was directed to acquaint the Senate therewith.

A message from the Senate informed the House that the Senate ask a conference on the subject-matter of the disagreeing votes of the two Houses, on the amendments of the Senate to the bill, entitled "An act for the admission of the State of Maine into the Union," and have appointed managers at the said conference on their part.

The Missouri Bill.

The House then again went into Committee of the Whole, (Mr. COBB in the chair,) on the Missouri bill—Mr. STORRS's proposition to insert therein the clause to exclude slavery from the territory of the United States west of the Mississippi, and north of thirty-six degrees thirty minutes north latitude, (excepting the proposed State of Missouri,) being still under consideration.

Mr. BEECHER resumed and concluded the speech which he commenced on Saturday, against the amendment, and in defence of the right of Congress to impose the slavery restriction, heretofore discussed.

Mr. RANDOLPH again rose, and spoke some time against the amendment, and in reply to some of the arguments of Mr. BEECHER.

Mr MALLARY, of Vermont, spoke some time in explanation of the reasons which would induce him to vote against the amendment, though he was in favor of restriction on the territories west of the Mississippi, &c.

Mr. STORRS next addressed the committee, in a short but earnest speech, in support of his amendment.

Mr. LIVERMORE made a few remarks against the amendment.

Mr. BALDWIN spoke a short time in favor of the amendment, and in reply to a point or two of Mr. BEECHER's remarks.

The question was then taken on Mr. STORRS's amendment, and decided in the negative—ayes 33.

The committee then proceeded to fill up the details of the bill.

Mr. TAYLOR moved an amendment thereto, going to strike out all that part providing the apportionment of delegates to the convention among the several counties, and substituting therefor, in substance, a provision leaving the apportionment to the General Assembly of the Territory, according to the free population thereof.

Mr. RANDOLPH rose to offer a little amendment to the amendment, which he supposed had dropped out of it by accident: it was the word *white*—a matter, he observed, of some importance yet to those on the south side, as they said—and proceeded to extend his remarks on the subject; when

Mr. TAYLOR accepted the amendment with pleasure. He had omitted it, because it was sufficiently expressed in subsequent parts, and he had not deemed it important here.

Considerable discussion ensued on Mr. TAYLOR's amendment, in which it was opposed by Messrs. SCOTT, WHITMAN, and CLAY, and was supported by the mover and Mr. LIVERMORE; and

The question being taken thereon, was decided in the negative, by a large majority.

Mr. ALLEN, of Massachusetts, then moved to amend the third section of the bill, by striking out of the clause which designates the kind of persons who shall vote for delegates to the convention of the State, the word *white*, so as to extend the privilege of voting to all "free male citizens;" and spoke at some length in support of his motion, and in explanation of his opinions on other points which had been introduced in the debate of the bill.

Mr. RANDOLPH rose in opposition to this amendment, and spoke about an hour and a half on this motion, and other topics which he embraced in its consideration.

Some proceedings took place on a point of order which was made; after which the question was put on Mr. ALLEN's motion, and a division required, when it appeared that but one member (the mover of the amendment) rose in its support.

After filling the blanks in the bill, according to the motions of Mr. SCOTT, of Missouri,

Mr. TAYLOR moved an amendment, [one which he had offered on the first day that the bill was taken up, and then withdrawn,] by

adding to the last section the following clause: "And if the same [the constitution] shall be approved by Congress at their next session after the receipt thereof, the said territory shall be admitted into the Union as a State upon the same footing as the original States."

This motion was advocated by the mover, and earnestly opposed by Messrs. SCOTT, CLAY, and MERCER; and, after some remarks by Mr. BUTLER, of Louisiana, touching the case of Louisiana, referred to in the debate,

The question was taken on Mr. TAYLOR's motion, and negatived—ayes 75, noes 84.

Mr. STORRS then offered an amendment, in effect to transfer the restrictive amendment already adopted, to the sixth section of the bill, (which embraces those provisions in the nature of compact,) and so modify it as to make it a *recommendation* for the free acceptance or rejection of the convention of Missouri, as an article of compact, to exclude slavery, instead of *enjoining* it as an absolute condition of their admission.

Mr. CLAY seconded the motion, and, with the mover, zealously urged the adoption of the amendment. It was opposed as zealously by Messrs. TAYLOR, SERGEANT, and GROSS, of New York.

The debate had continued some time, with much animation; when, in consequence of the doubts expressed whether the amendment, in its present shape, was in order, Mr. STORRS withdrew it.

Mr. CLAY renewed the amendment in substance, but so changing the manner of inserting it in the bill as to avoid the objection as to the point of order.*

The debate was renewed on the proposition, and continued with undiminished zeal, by Mr. CLAY, in its support, and by Messrs. TAYLOR, SERGEANT, RANDOLPH, and COOK, against it.

The question being put, the committee divided, and the amendment was negatived, as follows: For the amendment 82, against it 92.

No other amendment being offered, about half past nine o'clock the committee (having rejected several motions, in the course of the evening, to rise and report progress) rose and reported the bill to the House.

TUESDAY, February 29.

Maine Bill.

The House took up, and proceeded to consider, the message from the Senate asking a conference upon the subject-matter of the disagreeing votes of the two Houses on the amendments proposed by the Senate to the bill, entitled "An act for the admission of the State of Maine into the Union;" whereupon,

Resolved, That this House do agree to the conference asked by the Senate upon the subject-matter of the disagreeing votes of the two Houses on the amendments depending to the bill aforesaid, and that managers be appointed to the same on their part.

Ordered, That Mr. HOLMES, Mr. TAYLOR, Mr. LOWNDES, Mr. PARKER, of Massachusetts, and Mr. KINSEY, be the managers at the said conference on the part of this House.

Missouri Bill.

The House took up, and proceeded to consider, the amendments reported by the Committee of the Whole to the bill to authorize the people of the Territory of Missouri to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; and, the said amendments being read, were concurred in by the House, with the exception of the following:

"And shall ordain and establish, that there shall be neither slavery nor involuntary servitude in the said State, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: *Provided, always*, That any person escaping within the same, from whom labor or service is lawfully claimed in any other State, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid; *Provided, nevertheless*, That the said provision shall not be construed to alter the condition or civil rights of any person now held to service or labor in the said Territory."

The question was then stated to concur in the said amendment; when,

Mr. STORRS moved to amend the same by striking out these words: "And shall ordain and establish that;" and, in lieu thereof, to insert the following, to wit:

"*And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said convention, for their free acceptance or rejection, to be incorporated into the constitution of the said State, as articles of compact between the said State and the United States, viz: That there be neither slavery nor involuntary servitude in the said State, otherwise than in the punishment of crimes whereof the party shall have been duly convicted; *Provided, always*, That any person escaping within the same from whom labor or service is lawfully claimed in any other State, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid; *Provided, nevertheless*, That the said provision shall not be construed to alter the condition or civil rights of any person now held to service or labor in the said Territory."

Mr. RHEA spoke near an hour against the restriction.

* None of Mr. Clay's speeches on the Missouri question were reported, and he did not vote upon the adoption of the compromise—which he could not do, being Speaker of the House, and the vote not a tie. But his course during the whole question is fully seen in the brief notices taken of it—against the restriction, and for the compromise—but not taking a prominent lead in either measure. It was afterwards, and when the constitution formed by Missouri was resisted on account of the free negro and mulatto clause, and which revived the original question with all its portentous consequences, that Mr. Clay took the lead which earned for him the title of Pacificator.

Mr. WALKER, of North Carolina, spoke a short time on the same side.

Mr. FORD, of New York, spoke half an hour in answer to the remarks of several gentlemen who had opposed the restriction.

Mr. JOHNSON, of Virginia, replied briefly to Mr. F., and in explanation of remarks which he had before made.

Mr. NELSON, of Virginia, next rose, and entered into a general examination of the restriction in the proposed case; to show that Congress possessed no right to impose it.

Mr. RANDOLPH spoke some time against Mr. STORRS's amendment.

Mr. SMITH, of Maryland, followed, and addressed the House at considerable length against the right of restriction, &c.

Mr. FORREST, of Pennsylvania, spoke as follows:

Mr. Speaker: I rise to give my reasons why I shall vote for the restriction and against the amendment offered to it, or, in other words, more in unison with my feelings, why I shall vote against the extension of slavery beyond the bounds of the old United States. I rise with unfeigned deference to those who have gone before me, whose abilities are so pre-eminent, whose research has been so profound, and whose powers and eloquence have been so impressive on the subject, that very little is left for me to say. I have possessed myself of sundry notes from the constitution and other documents, to aid me in my feeble attempt, lest I should be embarrassed, not being accustomed to public speaking, and having but small hopes, and less expectation, of being able to cast a single ray of new light on the subject. I shall commence by declaring that the constitution, so far as slavery may be inferred from it, is nothing but the creature of compromise, which I can testify, on a retrospect of my feelings at the time of its adoption, or rather when it was promulgated for the consideration of the public. It was a compromise to prevent disunion; it was a dereliction of first principles upon which the independence of our country was achieved; it was an acquiescence in the bondage of those of our fellow-men in whose services their possessors conceived they had a property. It was a compromise for the sake of peace, and confined wholly to the then United States, and not extended to the territory possessed or to be acquired.

[The argumentative part of his speech was then gone into, and after it was finished, Mr. F. went on to say:]

I will relieve the committee from further attention, after a very few remarks on observations that have been made by members opposed to the amendment. The member from Virginia, who is not now in his place, but who I have in my eye, when on the floor dealt out denunciations of disunion, massacre, civil war, horror, and blood, exclaiming that, if the restriction should be carried, this would be the darkest day our country ever saw. Here I must differ with the member. No; the morning of the 26th day of December, 1776, let me tell the youth, whose father was a fellow-soldier of mine, a Revolutionary compatriot in the cause of liberty, was the darkest time our country ever saw. It was then WASHINGTON led his patriot band of freemen to the battle of Trenton, the forlorn hope of the independence of his country. It was then he commanded the rifle corps under Captains Washington and Monroe to drive in the Hessian pickets. Methinks I see the striplings skipping in obedience. The action became general, and WASHINGTON, at their head, pouring forth his patriotic exhortation, in words that will ever be remembered by me, and ought to be impressed on the minds of every friend to liberty: "That the darkest time of night was just before day;" which was soon verified by the surrender of the Hessians, an event that gave a preponderance to the invisible balance held by the hand of Him who weighs the fate of nations. It was that event that laid the foundation of our country's independence, and to which we are indebted for our seats at this day, in this splendid hall, once more engaged in the cause of liberty. When WASHINGTON led on his little patriot band, to them he was as a modern Moses; he went before them as a pillar of smoke by day, and a column of fire by night; his sympathy in their distress and sufferings allayed their hunger and quenched their thirst. They followed him as the modern Israelites, the Israelites of the day, with their *urim* and *thummim* on their breasts, the insignia of their cause inscribed on escutcheons of brass, fixed on their bayonets and sword-belts—liberty or death—united we stand, divided we fall—'tis for posterity we die. Posterity! what, posterity perpetuate slavery! How shall I express myself? *Oh pour un mantle pour couvrir les faces de ceux qui sont les fils de mes compatriots*, who with me in battle, fell, whose death I then regretted as premature and unfortunate, snatched, as I then thought, from a participation in the blessings of a happy independence, in the full enjoyment of every civil and religious liberty. But now I have occasion to rejoice; yes, rejoice overmuch, that they were not, like me, permitted to live to see posterity outgrow the remembrance of the patriotic virtues of their fathers, by an act for the extension of slavery.

It has been a source of very considerable pain to me, and an afflicting exercise of mind, to hear members on one side of the House, or those who are opposed to restriction, use such language against their fellow-members on the other side, as does not comport with their dignified standing on this floor. Denunciation, sarcasm, and insinuation, serve to irritate and excite warmth with some, but with me they only produce sorrow, that the exemplary and conciliatory language of Abraham, the elder, to Lot the younger brother, did not pervade our feelings: "Let there be no strife between thee and me, between thy herdsmen and mine; are

we not brethren?" I shall notice an allusion to me by a member when on the floor, who was pleased to characterize the extremes of my life, by portraying the previous part in all the habiliments and trappings of a soldier in uniform clothes and epaulettes. The friend must have had but a very imperfect knowledge of the Revolutionary Army, if he supposed that they were as neatly dressed and equipped as the officers of the present day. No, it was the inability of Congress to furnish the means to either feed, pay, or clothe the army, that reduced them to starvation, and to the necessity of cutting up their only blankets to make a coat and overalls; and as to rank, it could not be distinguished for the want of epaulettes. I was in hopes the little service I rendered to my country would not have been sufficient to have brought me into notice at this day; it is a part of my life I wish to forget, being opposed to war, believing it to be unlawful in the sight of God. But, if the extension of slavery grows out of the question before the committee, I shall think the small share I have had in the Revolution was the blackest part of my life.

My plainness of dress and manners were also noticed and complimented, as belonging to the society of Friends, otherwise called Quakers. I trust I am a member of the church militant, and in spiritual unison with friends, whose character is peace and good will to all men; and I am authorized to say, that I would cheerfully give up the Territory to the inhabitants to free their fellow-men, to avert what has been threatened, but which I cannot think will ever be realized. However, I cannot do an evil that good may come out of it.

I now shall conclude, with expressions of respect for the members from Virginia and Kentucky, who were pleased to compliment the State of which I am a humble Representative, by ascribing its dignified standing in the Union to the exemplary conduct of the people called Quakers. Would to God we were all Quakers; there would be less strife, more harmony and brotherly love among us; and, if we were to follow their precepts and emulate their virtues, we should do as they do; they build all their churches without a lottery; they do not sell their pews to the highest bidder; but sit on benches, master and man; they maintain their own poor, and pay their tax assessed for the maintenance of the poor of the township they live in; they believe God to be a spirit, and worship in spirit and truth.

Mr. PARKER, of Virginia, occupied the floor about half an hour, on the other side. When Mr. P. concluded—

The question to agree to the amendment proposed by Mr. STORRS, was put, and decided in the negative—yeas 82, nays 98.

Mr. SCOTT then offered an amendment to the restrictive amendment, having for its object, in substance, to prevent the operation of the restriction either on the slaves now in Missouri or on their increase.

This proposition was advocated by Mr. CAMPBELL of Ohio; but,

Mr. SCOTT, at the suggestion of several of his friends, withdrew his amendment.

The question was then taken on concurring in the restrictive amendment, adopted in Committee of the Whole, on the motion of Mr. TAYLOR, and decided in the affirmative, by yeas and nays, as follows:

YEAS.—Messrs. Adams, Allen of Massachusetts, Allen of New York, Baker, Bateman, Beecher, Boden, Brush, Buffum, Butler of New Hampshire, Campbell, Case, Clagett, Clark, Cook, Crafts, Cushman, Darlington, Dennison, Dewitt, Dickinson, Dowse, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Fay, Folger, Ford, Forrest, Fuller, Gross of New York, Gross of Pennsylvania, Guyon, Hackley, Hall of New York, Hazard, Hemphill, Hendricks, Herrick, Hibshman, Heister, Hostetter, Kendall, Kinsey, Kinsley, Lathrop, Lincoln, Linn, Livermore, Lyman, Maclay, Mallary, Marchand, Meech, R. Moore, S. Moore, Monell, Morton, Mosely, Murray, Nelson of Massachusetts, Parker of Massachusetts, Patterson, Phelps, Philson, Pitcher, Plumer, Rich, Richards, Richmond, Rogers, Ross, Russ, Sampson, Sergeant, Silsbee, Sloan, Smith of New Jersey, Southard, Street, Stevens, Strong of Vermont, Strong of New York, Tarr, Taylor, Tomlinson, Tompkins, Tracy, Upham, Van Rensselaer, Wallace, Wendover, Whitman, and Wood—94.

NAYS.—Messrs. Abbot, Alexander, Allen of Tennessee, Anderson, Archer of Maryland, Archer of Virginia, Baldwin, Ball, Barbour, Bloomfield, Brevard, Brown, Bryan, Burton, Burwell, Butler of Louisiana, Cannon, Cobb, Cocke, Crawford, Crowell, Culbreth, Culpeper, Cuthbert, Davidson, Earle, Edwards of North Carolina, Ervin, Fisher, Floyd, Foot, Fullerton, Garnett, Hall of North Carolina, Hardin, Hill, Holmes, Hooks, Johnson, Jones of Virginia, Jones of Tennessee, Kent, Little, Lowndes, McCoy, McCreary, McLane of Delaware, McLean of Kentucky, Mason, Meigs, Mercer, Metcalf, Neale, Nelson of Virginia, Newton, Overstreet, Parker of Virginia, Pinckney, Pindall, Quarles, Randolph, Rankin, Reed, Rhea, Ringgold, Robertson, Settle, Shaw, Simkins, Slocumb, Smith of Maryland, B. Smith of Virginia, A. Smyth of Virginia, Smith of North Carolina, Storrs, Strother, Swearingen, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Warfield, Williams of Virginia, and Williams of North Carolina—86.

So the House concurred in the restriction.

Mr. TAYLOR then renewed a motion which he had made unsuccessfully in committee, to amend the last section of the bill, by striking out the words "and the said States, when formed, shall be admitted into the Union on an equal footing with the original States," and inserting in lieu thereof the following: "and if the same (the constitution) shall be approved by Congress, the said Territory shall be admitted into the Union as a State, upon an equal footing with the original States."

This question was briefly supported by the mover, and was opposed by Messrs. SCOTT, LOWNDES, MERCER, FLOYD, and HENDRICKS; and the question being taken thereon, it was decided in the negative, by yeas 49, and nays 125.

The question recurring on ordering the bill to be engrossed and read a third time,

Mr. STORRS moved to amend the bill, by adding thereto a new section, providing for the exclusion of slavery from all the Territories of the United States west of the Mississippi and north of thirty-six degrees thirty minutes of north latitude, excepting the proposed State of Missouri—(the amendment commonly called the compromise.)

Mr. RANDOLPH spoke a short time against this amendment.

Mr. FOOT moved to amend the amendment by striking out the words "thirty-six degrees thirty minutes north latitude," so as to leave the provision applicable to all the Territories of the United States.

Mr. CLARK made a few remarks against the propriety of introducing the amendment offered by Mr. STORRS in this bill.

Mr. RANDOLPH stated much at large, the reasons why he should vote against the compromise.

Mr. FOOT explained the object of his motion, which was, chiefly to attempt an accommodation of conflicting opinions on this subject, of stripping the question of the constitutional difficulty, and to test the sincerity of those who had maintained the restriction.

Mr. COBB spoke at considerable length, and very warmly, against all restriction whatever, as tending to universal emancipation.

Mr. STORRS rose and stated that, from the consideration that his proposition might create delay in the passage of the bill, by drawing out a long discussion, and thus, by procrastinating any result from the conference between the two Houses, operate to delay the admission of Maine beyond the 4th of March, the time to which she had been limited by the parent State—he would withdraw his proposition.

The question was then at length taken, on ordering the bill to be engrossed, and read a third time, and decided in the affirmative by yeas and nays, as follows:

YEAS.—Messrs. Adams, Allen of New York, Anderson, Baker, Bateman, Beecher, Boden, Brush, Buffum, Butler of New Hampshire, Campbell, Case, Clagett, Clark, Cook, Crafts, Cushman, Darlington, Dennison, Dewitt, Dickinson, Dowse, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Fay, Folger, Ford, Forrest, Fuller, Gross of New York, Gross of Pennsylvania, Guyon, Hackley, Hall of New York, Hemphill, Hendricks, Herrick, Hibshman, Heister, Hill, Hostetter, Kendall, Kinsey, Kinsley, Lathrop, Lincoln, Linn, Lyman, Maclay, Mallary, Marchand, Meech, R. Moore, S. Moore, Monell, Morton, Mosely, Murray, Nelson of Massachusetts, Parker of Massachusetts, Patterson, Phelps, Philson, Pitcher, Plumer, Rich, Richards, Richmond, Rogers, Ross, Russ, Sampson, Sergeant, Silsbee, Sloan, Smith of New Jersey, Southard, Stevens, Street, Strong of Vermont, Strong of New York, Tarr, Taylor, Tomlinson, Tompkins, Tracy, Upham, Van Rensselaer, Wallace, Wendover, Whitman, and Wood—93.

NAYS.—Messrs. Abbot, Alexander, Allen of Tenn., Archer of Maryland, Archer of Virginia, Baldwin, Ball, Barbour, Bloomfield, Brevard, Brown, Bryan, Burton, Burwell, Butler of Louisiana, Cannon, Cobb, Cocke, Crawford, Crowell, Culbreth, Culpeper, Cuthbert, Davidson, Earle, Edwards of North Carolina, Ervin, Fisher, Floyd, Foot, Fullerton, Garnett, Hall of North Carolina, Hardin, Holmes, Hooks, Johnson, Jones of Virginia, Jones of Tennessee, Kent, Little, Livermore, Lowndes, McCoy, McCreary, McLane of Delaware, McLean of Kentucky, Mason, Meigs, Mercer, Metcalf, Neale, Nelson of Virginia, Newton, Overstreet, Parker of Virginia, Pinckney, Pindall, Quarles, Randolph, Rankin, Reed, Rhea, Ringgold, Robertson, Settle, Shaw, Simkins, Slocumb, Smith of Maryland, B. Smith of Virginia, A. Smyth of Virginia, Smith of North Carolina, Storrs, Strother, Swearingen, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Warfield, Williams of Virginia, and Williams of North Carolina—84.

The bill was then ordered to be read a third time to-morrow; and a little after 8 o'clock, the House adjourned.

WEDNESDAY, March 1.

Death of David Walker.

Mr. QUARLES, of Kentucky, rose, he said, with feelings which he could not express, and with a melancholy very seldom experienced by him, to announce to the House the distressing intelligence of the death of one of its body; my friend and colleague Major DAVID WALKER, with Christian fortitude, about eight o'clock this morning, exchanged, said Mr. Q., a world of cares, of toils and difficulties, for, I hope, a mansion of bliss.

I offer, said Mr. Q., for consideration, resolutions comporting with the wish of the deceased. While living, my colleague, by profession and practice, in private and public life, was a plain, unaffected man. He, from education, had an abhorrence of pomp and parade. He desired that the body that was clad with mourning should weep with mental distress. He had seen numerous carriages, filled with persons attending funerals, at this and other places, moving with solemnity to the burial ground, and returning from it with no evidences of sorrow. And to prevent a similar spectacle, connected with his remains, did he make the request contained in the resolutions I now offer. The Representatives from Kentucky, the relatives of the deceased, and also those gentlemen who lived with him, and whose kindness was generously afforded him in his sickness, have been consulted with regard to the propriety of the course which is now proposed, and have approved it. I wish that this body will consider the departure from the usual course of proceeding on former occasions of this kind, as arising from none other than the purest motives—the most sincere respect to our colleague—and in this House a desire to carry into execution the dying wish of one of its body. I hope that I shall have the kind indulgence of my brother members, in permitting the repeated wishes of my colleague to be car-

ried into effect, conformably to the spirit of the resolutions now proposed.

Mr. Q then submitted the following resolutions:

Resolved, unanimously, That a committee be appointed to take order for superintending the funeral of DAVID WALKER, deceased, late a Representative from the State of Kentucky.

Resolved, That the said DAVID WALKER having communicated to the SPEAKER of this House, and the honorable JAMES BARBOUR, of the Senate, shortly before his death, his wish that he might be buried without pomp or parade, attended by a few only of his friends, in compliance with his wish this House will, on this occasion, not conform to the practice which has heretofore prevailed, of adjourning, to attend the funeral of a deceased member.

Resolved, further, That, in conformity with the spirit of the same wish of the deceased, the members of this House will depart from the usage of wearing crape for one month, with the exception of those who may voluntarily choose to conform to said usage.

Mr. RANDOLPH said it was from a very different sentiment indeed than that of disrespect to their departed brother who had gone to his account, that he rose to say any thing on this melancholy occasion. There is no man in this body, said Mr. R., in whose eyes, at this time —may it be so at all times!—the wretched strife and contention of ambition appears so contemptible, or at least more low and contemptible, than in the eyes of him who now addresses you. Sir, I cannot consent to continue that strife under existing circumstances; I will, as far as in me lies, conform to the letter and the spirit of the request of the deceased. But, while I conform to the letter and spirit of that request—and, sir, it is such a one as I should wish made in my own behalf, under similar circumstances*—I cannot consent to protract the discussion of the most agitating and invidious question which was ever presented to the Congress of the United States since the institution of this Government. I do not mean to cavil about the point that a motion not to adjourn is never in order, although a motion to adjourn is always in order —far be such a spirit from me at all times, but more especially at the present time. But, said Mr. R., I wish to adhere to precedents set in good times, on such mournful occasions, in this House. And, if precedents are valuable on any occasion, they are to be adhered to in those decorous and solemn rites which all people, even the most savage, pay to the last sad relics of departed humanity, and in which the infringement of established custom strikes as a jarring discord upon the heart. The first death which took place of a member of this House—and I ought well to remember it—for it was one of my nearest relatives, the only near one left on the maternal side—it took place in New York, in the month of June, 1790, when Congress sat in that city—the House resolved that the delegation of Virginia then present (consisting, when full, of only ten members) should be a committee to see performed the last sad offices for the deceased. The next day they "resolved, unanimously, that the members of this House, from a sincere desire of showing every mark of respect due to the memory of Theodorick Bland, deceased, late a member thereof, will go in mourning for him one month, by the usual mode of wearing crape on the left arm." As the member in question was, if not in affluent, yet in independent circumstances, it was ordered that a sum equal to his travelling expenses, had he lived to return to Virginia, should be allowed for the expense of removing him to his last sad home in this world. I mean, sir, the travelling allowance was viewed as a fund to which the deceased member's executors might be entitled, and therefore applicable, under the direction of his colleagues, to the rites of sepulture. His executors might, if they pleased, have removed the body to the family burial ground. The funeral was neither pompous nor expensive; it was, what it ought to have been, decent Christian burial. Other cases had occurred, Mr. R. continued, which he remembered, in Philadelphia; two particularly, of members from North Carolina. On those occasions, a particular friend of his, who has been a member of Congress from the time of the adoption of the constitution by North Carolina, was appointed on the committee to make the necessary arrangements for interment, in the case of Mr. Burgess, of Edenton, he believed, and in that of Mr. Bryan, of Newbern, he was sure, in conjunction with a colleague of his, (Mr. Thomas Blount,) since also gone where all flesh must go. On that occasion this rule was also observed. During the first session of Congress here, (the last of Mr. Adams's administration,) this House lost one of its most valuable members, in the person of a gentleman from Georgia, (Mr. Jones.) In this case the rule was still adhered to. But, at a succeeding session, the first under the new administration, and the only bad example set at the time—Mr. R. regretted it the more, as he felt his full share of all responsibility incurred at that time—on the death of the delegate from the Territory of Mississippi, (Mr. Hunter,) the rule was departed from; then, for the first time, was the practice adopted of providing a funeral at the public expense, be that expense

* Of this Mr. Randolph gave the appropriate evidence six years afterwards, on an occasion when the probabilities of death were sufficiently strong to make him prepare for the event. He placed a draft for $1,000 in the hands of a friend, to have his body carried home, and buried at his own expense—forbidding all parade and pageantry. What was said and done upon this occasion of the death of Mr. Walker, contrasted with what is now said and done on the death of a member, is a pregnant instance of the tendency of the Government to slide from its foundations in all its workings. Mr. Walker was, what his dying request showed him to be, a man of native dignity of mind; and his last act was one of devotion to duty, having himself brought dying into the House to give his vote on the portentous Missouri question.

what it might; and that rule, under which gross abuses have been practised, has continued ever since to be observed, or rather to be abused; and this without any change in the accustomed form of attending the funeral and wearing crape for a month. Why not, then, in this case, said Mr. R., comply with the letter and spirit of the request of the deceased, without departing from the established form, and yet get back, if I may so express myself, to first principles, on this melancholy occasion? Mr. R. adverted to the funeral of a former Vice President. To what man does the cause of American Independence owe more, with *one* single exception, than to George Clinton? None; none, sir. If any man's remains might claim a funeral at the public expense, surely it is those of him whose death bathed a nation in tears. Next to that man, or as near as any, in the cause of the Revolution, stood George Clinton. But a funeral at the public expense ought to be considered as the highest public honor which the nation could bestow. Ought it, then, to be considered a matter of course, that, whenever a member of either House of Congress, or a Territorial Delegate, or a Vice President, or even a President of the United States, shall leave this bustling, sorry world, we shall follow him (perhaps nothing loath) to the grave, and the sumptuous funeral be defrayed at the public charge? It was not the money price of which he spoke. Recollect the case of the late William Pitt. What was the distinction taken on that occasion? And by whom was a public funeral of that great statesman, who for more than twenty years had filled the first place in the eyes of Europe, opposed? By a man whom I may call, and will call, ultimus Anglorum—by William Windham; by the favorite disciple of Edmund Burke, the fourth but not the least star in the great constellation of English statesmen that is set for ever. It was this—he would pay the debts of this eminent man; his great and disinterested public services deserved it at the hands of the nation; but he would give no unsuccessful statesman, and such he considered Mr. Pitt to have been, a funeral at the public expense. Mr. R. hoped the House would, in the present case, go on in the usual course; and that, while it complied with the established form, it would at the same time comply in such a manner as to fulfil the letter and spirit of the request of the deceased.

The SPEAKER rose and observed that, as he was referred to in the resolutions, he would ask leave of the House to state what had passed between the deceased and himself on the subject. The SPEAKER then briefly recapitulated the conversations which had taken place between himself and the deceased, which corroborated and supported the statement contained in the resolution.

A few remarks were subjoined by Mr. CLARK and Mr. CULPEPER, in approbation of the wishes of the deceased, when the question was taken on each resolution separately, (a division of the question having been required by Mr. WALKER, of North Carolina,) and they were severally agreed to, *nem. con.*

A committee was appointed accordingly, consisting of the entire delegation from Kentucky, with the exception of Mr. CLAY, (Speaker,) and with the addition of Messrs. BARBOUR, SHAW, TAYLOR, and CUTHBERT.

On motion of Mr. RANDOLPH, the House agreed that when it adjourned, it would adjourn to twelve o'clock to-morrow.

Mr. R. then moved an adjournment, but the motion was not agreed to.

The Missouri Bill.

The engrossed bill to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union, upon an equal footing with the original States, was read the third time, and the question stated, "Shall the bill pass?"

Mr. RANDOLPH rose, and spoke more than three hours against the passage of the bill, on the ground of the unconstitutional and unjust restrictions which it imposed on the people of Missouri, as a condition of their admission into the Union, &c. When Mr. R. had concluded,

Mr. HOLMES called for the previous question.

The call being sustained by the House, the previous question was accordingly stated, "Shall the main question be now put?" which being agreed to, the question was taken on passing the bill, and decided in the affirmative—yeas 91, nays 82.

So the bill was passed, and sent to the Senate for concurrence; and the House adjourned.

THURSDAY, March 2.

JAMES WOODSON BATES appeared, produced his credentials, was qualified, and took his seat as the Delegate from the Territory of Arkansas.

The Missouri Bill—Compromise.

The message received from the Senate announced that they had passed the Missouri bill, with an amendment; which amendment was, in substance, to strike out the slavery restriction, and insert, in lieu thereof, the clause (Mr. THOMAS's and Mr. STORRS's original proposition) to exclude slavery from all the territory of the United States west of the Mississippi, north of 36° 30′ north latitude, except within the proposed State of Missouri.

On motion of Mr. HOLMES, this message was laid on the table long enough to give him an opportunity to make a report from the committee of conference; which report is as follows:

Mr. HOLMES, from the managers appointed on the part of this House, to attend a conference with the managers appointed on the part of the Senate, upon the subject-matter of the disagreeing votes of the

two Houses on the amendments proposed by the Senate to the bill of this House, entitled "An act providing for the admission of the State of Maine into the Union," made the following report:

1. That they recommend to the Senate to recede from their amendments to the said bill.

2. That they recommend to the two Houses to agree to strike out the fourth section of the bill from the House of Representatives, now pending in the Senate, entitled "An act to authorize the people of Missouri to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," the following proviso, in the following words: "And shall ordain and establish that there shall be neither slavery nor involuntary servitude, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any other State, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid: *Provided, nevertheless*, That the said provision shall not be construed to alter the condition or civil rights of any person now held to service or labor in the said Territory."

And that the following provision be added to the bill:

SEC. 8. *And be it further enacted*, That, in all that territory ceded by France to the United States, under the name of "Louisiana," which lies north of thirty-six degrees and thirty minutes north latitude, not included within the limits of the State contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes whereof the party shall have been duly convicted, shall be, and is hereby, forever prohibited: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any other State, or Territory of the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

The report was read, and ordered to lie on the table.

Mr. BEECHER then moved to print the report.

This motion was opposed by Mr. LOWNDES, on the ground that it would imply a determination in the House to delay a decision of the subject to-day, which he had hoped the House was fully prepared for.

Some conversation passed on this motion between Mr. TAYLOR and Mr. LOWNDES, on the propriety of proceeding to act in this House, on the recommendation of the committee, before the Senate had given the pledge required of them of first adopting the report by receding from the amendments to the Maine bill, in which Mr. TAYLOR opposed such proceeding, and Mr. LOWNDES was in favor of it; inasmuch as it would be wrong to put in jeopardy a satisfactory settlement of this question, from an adherence to a mere point of etiquette and order; that the House could not fear that the Senate would adopt the recommendation to recede from their amendments, as the committee of conference was unanimous in their report, with the exception of one member from this House, (Mr. TAYLOR,) and became us further, as the disposition of the Senate to admit Maine could not be doubted, they would have no motive to adhere to their amendments if this House should adopt the report, &c.

A long debate took place on the question of printing, or rather on the question whether this House should act on the second and third propositions of the committee of conference, before the Senate had acted on the first. Those against acting immediately, and in favor of the printing, were Messrs. TAYLOR, LIVERMORE, and WHITMAN; and those who opposed the printing, were Messrs. LOWNDES, HOLMES, KINSEY, STORRS, RANDOLPH, BROWN, STROTHER, CAMPBELL, and PARKER, of Virginia.

The debate had continued about three hours, when Mr. BEECHER withdrew his motion.

The House then resumed the consideration of the amendments of the Senate to the Missouri bill.

The question was divided so as first to be taken on striking out the restriction.

Mr. LOWNDES spoke briefly in support of the compromise recommended by the committee of conference, and urged with great earnestness the propriety of a decision which would restore tranquillity to the country—which was demanded by every consideration of discretion, of moderation, of wisdom. and of virtue.

Mr. HOLMES followed in a short speech, nearly to the same effect.

Mr. ADAMS, of Massachusetts, spoke at some length in favor of the restriction, and against a compromise.

Mr. KINSEY, of New Jersey, spoke as follows:

Mr. Speaker, a period has now arrived when it becomes necessary to close this protracted debate, and, as I shall vote for the compromise offered by the Senate, it is proper to state my reasons for so doing. We have arrived at an awful period in the history of our empire, when it behooves every member of this House now to pause and consider that on the next step we take depends the fate of unborn millions. I firmly believe that on the question now before us rests the highest interests of the whole human family. Now, sir, is it to be tested, whether this grand and hitherto successful experiment of free government is to continue, or, after more than forty years' enjoyment of the choicest blessings of Heaven under its administration, we are to break asunder on a dispute concerning the division of territory. Gentlemen of the majority have treated the idea of a disunion with ridicule; but, to my mind, it presents itself in all the horrid, gloomy features of reality; and when we unfold the volume of past ages, and, in the history of man, trace the rise and fall of governments, we find trifles, light as air compared to this, dissolving the most powerful confederacies, and overturning extensive empires. If we inquire what causes operated to destroy the Amphictyonic league

or dissolve the German Confederacy, in almost every case, we find questions of territorial jurisdiction. And what, for past ages, has deluged Europe in blood? Disputes concerning territorial government. On questions of this high and mighty import, it behooves us to approach with the most awful considerations. What at this period is matter of conjecture, may, in a short time, become real history. It is not a question like that heretofore, in which a diversity of opinion commingled in the same society where a division of sentiment, on subjects political, spread itself over the whole Union; but, on this question, the States are almost equally divided. And what is the case now before us? Opinions from which every gentleman, a few months past, would have recoiled back with horror, as treason to imagine, are now unhesitatingly threatened; that which had no ideal existence, engendering as this discussion progresses, assumes a positive shape, and, mixing with this unpropitious debate, presents itself in all the dreadful appearances of reality. May God, in mercy, inspire us with a conciliatory spirit, to disperse its fury and dispel its terrible consequences.

On this question, which for near six weeks has agitated and convulsed this House, I have voted with the majority. I voted the same at the last session. But I am convinced, should we persist to reject the olive branch now offered, the most disastrous consequences will follow. Those convictions are confirmed by that acerbity of expression arising from the most irritated feelings, wrought upon by what our Southern brethren conceive unkind, unjust, determined perseverance of the majority: and to those I now beg leave to address myself. Do our Southern brethren demand an equal division of this wide-spread, fertile region; this common property, purchased with the common funds of the nation? No; they have agreed to fix an irrevocable boundary, beyond which slavery shall never pass; thereby surrendering to the claims of humanity and the non-slaveholding States, to the enterprising agriculturist of the North, the Middle and Eastern States, nine-tenths of the country in question.* In rejecting so reasonable a proposition, we must have strong and powerful reasons to justify our refusal; and notwithstanding you may plead your conscientious scruples, be it remembered you must shortly account to that august and stern tribunal—impartial history and the strict scrutiny of public opinion. Can you plead conscience in bar to such a compromise? If so, how reconcile votes you have, on similar questions, already given?

Mr. STEVENS, of Connecticut, said: Mr. Speaker, in this question of compromise now to be decided, I am more fortunate, I now have the floor, and must avail myself of this first opportunity to state explicitly, that I have listened with pain to the very long, protracted debate, that has been had on this unfortunate question; I call it unfortunate, sir, because it has drawn forth the worst passions of man in the course of the discussion. I have heard gentlemen, and I must in candor say gentlemen on both sides of the question, boast of sectional prowess, and of sectional achievements; and remind gentlemen from opposite sections of the Union, that they had not so fought and so conquered; or left such conclusion irresistibly to follow.

If the deadliest enemy this country has, or ever had, could dictate language the most likely to destroy your glory, prosperity, and happiness, would it not be precisely what has been so profusely used in this debate—sectional vaunting? Most undoubtedly it would. If the fell Spirit of Discord, the prime mover of sedition and rebellion in the heavenly realms, should rack his hellish invention for the same malicious purpose, he would undoubtedly pull the cord of sectional prowess; he would magnify the valorous deeds of each particular State or party division, and distort or obliterate all the rest. The arch planner of the first sedition and rebellion must for ever despair of improving on the sad invention.

If gentlemen are in favor of any compromise, it is a fit time to discuss that subject, and see if any can be hit on that will give general satisfaction.

Few gentlemen have risen in debate on this question, without deeply lamenting (and I think with great reason) the existence of parties, designated by geographical lines and boundaries. I also deprecate it, as being a division of the Union into parties so equal in number, wealth, intelligence, and extent of territory. Indeed, sir, there is no view of this unhappy division of our country, but must be sickening to the patriot, and in direct violation of the dictate of wisdom, and the last, though not least, important advice of the Father and Friend of his Country. He forbids the use of the words Northern and Southern, Atlantic and Western, as descriptive of the various parts of your country.

But, sir, we have now arrived at a point at which every gentleman agrees something must be done. A precipice lies before us, at which perdition is inevitable. Gentlemen on both sides of this question, and in both Houses, in doors and out of doors, have evinced a determination that augurs ill of the high destinies of this country! And who does not tremble for the consequences?

I do not here speak of that feeling which results from an apprehension of personal danger.

* The parallel of thirty-six degrees thirty minutes would divide the ancient province of Louisiana about equally, but during the pendency of the Missouri question a new boundary with Spain was agreed upon, which cut off nearly the whole lower half of that province, leaving to the United States only the Territory of Arkansas, and about as much more for an Indian Territory. The annexation of Texas recovered the amputated part of the province, and made the division between the free and the slave States about equal.

No, sir; I speak of that feeling which agitates the soul of every patriot when his country is in danger. I speak of that feeling, without a susceptibility of which, a man is no ornament to any country. I wish not to be misunderstood, sir. I don't pretend to say that in just five calendar months your Union will be at an end; your constitution destroyed; your proud trophies, won in the most valiant combat, profaned; glories of half a century, gained by yourselves and your departed friends, and unequalled in the history of any country or people on the face of the earth, made the sport of an envying world; and all this in a sacrilegious contest, at the end of which no wise man would give a pea-straw for his choice on which side to be found, as the victors would have lost all, and the vanquished have nothing left to excite envy.

But, sir, I do say, and for the verity of the remark, cite the lamentable history of our own time, that the result of a failure to compromise at this time, in the way now proposed, or in some other way satisfactory to both, would be to create ruthless hatred, irradicable jealousy, and a total forgetfulness of the ardor of patriotism, to which, as it has heretofore existed, we owe, under Providence, more solid national glory and social happiness, than ever before was possessed by any people, nation, kindred, or tongue, under Heaven.

Mr. MERCER followed on the same side, with great earnestness; and had spoken about half an hour, when he was compelled by indisposition to resume his seat.

The previous question was then called; and, the House having sustained the call by 103 votes, the main question was put on concurring with the Senate in striking out of the bill the slavery restriction on the State of Missouri, and decided in the affirmative—yeas 90, nays 87, as follows:

YEAS.—Messrs. Abbot, Alexander, Allen of Tennessee, Anderson, Archer of Maryland, Archer of Virginia, Baldwin, Barbour, Bayly, Bloomfield, Brevard, Brown, Bryan, Burton, Burwell, Butler of Louisiana, Cannon, Cobb, Cocke, Crawford, Crowell, Culbreth, Culpeper, Cuthbert, Davidson, Earle, Eddy, Edwards of North Carolina, Erwin, Fisher, Floyd, Foot, Fullerton, Garnett, Hall of North Carolina, Hardin, Hill, Holmes, Hooks, Johnson, Jones of Virginia, Jones of Tennessee, Kent, Kinsey, Little, Lowndes, McCoy, McCreary, McLane of Delaware, McLean of Kentucky, Mason, Meigs, Mercer, Metcalf, Neale, Nelson of Virginia, Newton, Overstreet, Parker of Virginia, Pinckney, Pindall, Quarles, Randolph, Rankin, Reed, Rhea, Ringgold, Robertson, Settle, Shaw, Simkins, Slocumb, Smith of New Jersey, Smith of Maryland, B. Smith of Virginia, A. Smyth of Virginia, Smith of North Carolina, Stevens, Storrs, Strother, Swearingen, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Warfield, Williams of Virginia, and Williams of North Carolina—90.

NAYS.—Messrs. Adams, Allen of Massachusetts, Allen of New York, Baker, Bateman, Beecher, Boden, Brush, Buffum, Butler of New Hampshire, Campbell, Clagett, Clark, Cook, Crafts, Cushman, Darlington, Dennison, Dewitt, Dickinson, Dowse, Edwards of Pennsylvania, Fay, Folger, Ford, Forrest, Fuller, Gross of New York, Gross of Pennsylvania, Guyon, Hackley, Hall of New York, Hazard, Hemphill, Hendricks, Herrick, Hibshman, Heister, Hostetter, Kendall, Kinsley, Lathrop, Lincoln, Linn, Livermore, Lyman, Maclay, Mallary, Marchand, Meech, R. Moore, S. Moore, Monell, Morton, Mosely, Murray, Nelson of Massachusetts, Parker of Massachusetts, Patterson, Phelps, Philson, Pitcher, Plumer, Rich, Richards, Richmond, Rogers, Ross, Russ, Sampson, Sergeant, Silsbee, Sloan, Southard, Street, Strong of Vermont, Strong of New York, Tarr, Taylor, Tomlinson, Tracy, Upham, Van Rensselaer, Wallace, Wendover, Whitman, Wood—87.

The question was then stated on the second amendment of the Senate, when—

Mr. TAYLOR moved to amend the amendment by striking out the words "thirty-six degrees thirty minutes north latitude," and inserting a line which would exclude slavery from all the territory West of the Mississippi, except Louisiana, Missouri, and Arkansas.

The previous question was again demanded, and again sustained by a majority of the House. The effect of the previous question being to exclude the question on the amendment, and to bring it back to the main question—

The main question was taken on concurring with the Senate in inserting in the bill, in lieu of the State restriction, the clause inhibiting slavery in the territory north of thirty-six degrees thirty minutes north latitude, and was decided in the affirmative—yeas 134, nays 42, as follows:

YEAS.—Messrs. Allen of New York, Allen of Tennessee, Anderson, Archer of Maryland, Baker, Baldwin, Bateman, Bayly, Beecher, Bloomfield, Boden, Brevard, Brown, Brush, Bryan, Butler of New Hampshire, Campbell, Cannon, Case, Clagett, Clark, Cocke, Cook, Crafts, Crawford, Crowell, Culbreth, Culpeper, Cushman, Cuthbert, Darlington, Davidson, Dennison, Dewitt, Dickinson, Dowse, Earle, Eddy, Edwards of Pennsylvania, Fay, Fisher, Floyd, Foot, Ford, Forrest, Fuller, Fullerton, Gross of Pennsylvania, Guyon, Hackley, Hall of New York, Hardin, Hazard, Hemphill, Hendricks, Herrick, Hibshman, Heister, Hill, Holmes, Hostetter, Kendall, Kent, Kinsey, Kinsley, Lathrop, Little, Lincoln, Linn, Livermore, Lowndes, Lyman, Maclay, McCreary, McLane of Delaware, McLean of Kentucky, Mallary, Marchand, Mason, Meigs, Mercer, R. Moore, S. Moore, Monell, Morton, Mosely, Murray, Nelson of Massachusetts, Nelson of Virginia, Parker of Massachusetts, Patterson, Philson, Pitcher, Plumer, Quarles, Rankin, Rich, Richards, Richmond, Ringgold, Robertson, Rogers, Ross, Russ, Sampson, Sergeant, Settle, Shaw, Silsbee, Sloan, Smith of New Jersey, Smith of Maryland, Smith of North Carolina, Southard, Stevens, Storrs, Street, Strong of Vermont, Strong of New York, Strother, Tarr, Taylor, Tomlinson, Tompkins, Tracy, Trimble, Tucker of South Carolina, Upham, Van Rensselaer, Wallace, Warfield, Wendover, Williams of North Carolina, and Wood—134.

NAYS.—Messrs. Abbot, Adams, Alexander, Allen of Massachusetts, Archer of Virginia, Barbour, Buffum, Burton, Burwell, Butler of Louisiana, Cobb,

Edwards of North Carolina, Ervin, Folger, Garnett, Gross of New York, Hall of North Carolina, Hooks, Johnson, Jones of Virginia, Jones of Tennessee, McCoy, Metcalf, Neale, Newton, Overstreet, Parker of Virginia, Pinckney, Pindall, Randolph, Reed, Rhea, Simkins, Slocumb, B. Smith of Virginia, A. Smyth of Virginia, Swearingen, Terrell, Tucker of Virginia, Tyler, Walker of North Carolina, and Williams of Virginia—42.

The amendment to the title to add the words "and to prohibit slavery in certain Territories," was then also concurred in. And so, all the amendments being concurred in, the bill was passed by the two Houses.

FRIDAY, March 3.

The Journal of the proceedings of the House on yesterday being read—

Mr. RANDOLPH rose and intimated an intention now to move the House to reconsider their vote of yesterday, by which they concurred with the Senate in striking the restriction from the Missouri bill.

The SPEAKER declared the motion out of order until the ordinary business of the morning, as prescribed by the rules of the House, should be disposed of. From which opinion of the Chair, Mr. RANDOLPH appealed.

The question being taken on the correctness of the decision, it was affirmed by the House.

The House then proceeded in receiving and referring petitions; when, petitions being called for from the members from Virginia—

Mr. RANDOLPH moved that the House retain in their possession the Missouri bill, until the period should arrive when, according to rules of the House, a motion to reconsider the vote of yesterday on concurring in the first amendment proposed by the Senate to the bill aforesaid, should be in order.

The SPEAKER declared this motion out of order, for the reason assigned on the first application of Mr. RANDOLPH on this day.

Question of Privilege.

Mr. RANDOLPH, being in the majority on that question, moved the House now to reconsider their vote of yesterday, in which they concurred in the first amendment proposed by the Senate to the bill, which was to strike out the slavery restriction.

Mr. ARCHER, of Virginia, seconded the motion.

The SPEAKER, having ascertained the fact, stated to the House that the proceedings of the House on that bill yesterday, had been communicated to the Senate, by the Clerk, and that the bill not being in possession of the House, the motion to reconsider could not be entertained.

Whereupon, Mr. RANDOLPH submitted the following resolution:

Resolved, That, in carrying the bill, entitled "An act to authorize the people of the Territory of Missouri to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," after a member from Virginia had given notice of his intention to move a reconsideration of the question decided last evening, in which the said member, viz: Mr. Randolph, voted in the majority on one of the amendments of the Senate thereto, the Clerk is guilty of a breach of the privileges of a member of this House under the rules thereof.

And the question being put whether the House would now consider the said resolution; it was decided in the negative—yeas 61, nays 71.

Mr. RANDOLPH then submitted the following proposition, which lies on the table:

"That so much of the thirty-seventh rule as allows a reconsideration of any question by motion of any member of the majority on such question, on the day succeeding that on which such question be taken, be expunged."

On motion of Mr. GROSS, of New York—

Ordered, That when the House adjourns, it will adjourn to meet again on Monday next.

FRIDAY, March 10.

Journal of the Old Congress.

Mr. STROTHER rose and said, that he thought it indispensably his duty to call up a motion he had made some time before; that certainly the time had arrived, when no reason could longer exist for refusing to publish the Secret Journal of the Old Congress; that, in making this motion, he did not mean to allude to any particular measures or the actors in them. All he should say on that subject was, that whatever they contained should be known to the people; that, if it appeared from them, there were subjects of great national concern agitated, the consequences of which would have been of the highest importance, and there were men who, on those occasions, have rendered great services to their country by their exertions in defending their rights, Mr. S. said it ought to be known, that every man might have that credit with his country he is entitled to. If, on the contrary, there were men who, in their opinion, had acted wrong, or wished to sacrifice any of the interests belonging to the Union, and which they did not consider as peculiarly favorable to the States they represented, but which might be injurious to them—if there were such men still alive, and who might possibly be brought forward as candidates for office, was it not equally proper that the whole of their public conduct should also be known; or how can the public judge, while the veil of secrecy is still thrown over it? Mr. S. thought that it was highly proper that nothing which was of importance to the country, and which had been previously agitated in our public councils at that distant day, should be kept from the public eye. He adverted to the strange appearance it might have that the Secret Journal of Congress should be published during the Revolutionary war, when the secrets might be considered as of more delicacy and importance than in time of peace, when there was reason to suppose

none such, or at least none of equal importance, could have existed.

Mr. S. made many other remarks on the subject, tending to prove the extreme impropriety of any longer withholding from the public a view of the Secret Journal, which he contended would cost but very little, and did not consist of more than sixty or eighty pages, and were all transcribed and ready for publication; to prove which he read a letter he held in his hand, from Mr. Secretary Adams, to that effect.

Mr. S. then moved to take up the resolution he had himself moved, for the publication of the Secret Journal.

After he had closed, some desultory conversation took place, which, showing that many members would vote against it—

Mr. C. PINCKNEY said that he hoped the motion would prevail; that it was difficult to see what reasons could exist against it; that if the Secret Journal of the Old Congress, from 1775 to 1783, (the conclusion of the peace,) were ordered to be published, why not these? In the former, it might have been much more improper than in the latter, because the whole of the Secret Journals contained the secret proceedings of Congress during the war, in which there may have been many private negotiations with different States in Europe, which those States might not wish to have exposed. That was the time, also, when spies, and private emissaries and agents were necessary, and, in many cases, indispensable, some of whom might be alive, or their families, who would not wish it known that their friends had been engaged in practices generally not deemed honorable. But from the year 1783 to 1789, the commencement of the new Government, no such secret could exist. He understood, from information which came from the Secretary of State, that the whole of the remainder did not contain more than sixty or eighty pages—not the size of many of the voluminous documents published this session—the expense, therefore, would be but small. As to the contents, Mr. P. said, he was only in Congress about half the time from 1783 to 1789; but, during that time, an event occurred which must be recorded on the Secret Journal, which, in his judgment, alone made it necessary that this part of the Journal should be published. It was a long time since it had occurred, and therefore what he stated would of course be to the best of his recollection. If there should be any mistakes, he would be willing to correct them; it was an event of great importance, in his opinion, in the civil history of this country, and to which he had alluded, in his observations on the Missouri bill, but which he would now more particularly state, as he had heard that what he had said before must have been misunderstood.

Mr. P. said, that, in 1785–'6, he believed '6, two or three years after the peace, Spain being very anxious on the subject, sent out Don Diego de Gardoqui, as her Minister, to this country, with instructions to offer to the United States a treaty of commerce, which she said was an advantageous one, if we would, in the same treaty, consent to give up the navigation of that part of the Mississippi which ran through the Spanish dominions, for twenty-five years. Mr. John Jay was the Secretary of Foreign Affairs. The treaty, according to the then routine of business, was referred to him to report his opinion, and, to the best of his remembrance, he recommended its adoption. Seven, being all Eastern and Northern States, did vote for it: but owing to the Confederation requiring nine States as necessary to form a treaty, it was defeated. Mr. P. said that, if any part of the public business of this country, in which he had any agency, gave him more pleasure than another, it was the agency he had in association with the distinguished gentlemen now high in office in Washington, in preventing it. He believed he might venture to say, it was owing to them and another, now gone, that the whole of the Western country was saved to us; that the Mississippi still flows through American lands, and that her members here so honorably fill their seats. And having, as he observed on the Missouri question, and, he said, let him here repeat it, contributed, at that distant day, to save the parent, he felt great pleasure on the late great occasion, in contributing his humble efforts to save her children.

The resolution was taken up and passed.

THURSDAY, March 23.

As soon as the sitting was opened—

Mr. RANDOLPH rose, and, after some feeling remarks, expressive of the grief with which he was filled, by the recent melancholy occurrence, of the death of that distinguished naval officer, Commodore Decatur, which he rather alluded to than announced, called the attention of the House to sundry resolutions, the import of which was, that, when it adjourns, it will adjourn to meet again on Saturday; that it will attend the funeral of the late Commodore Decatur on to-morrow; and that its members will, in respect to the memory of the deceased, wear crape on the left arm for the remainder of this session.

Mr. TAYLOR, of New York, required a division of the question on those resolutions, to take it separately on each.

Mr. RANDOLPH intimated that, if there was the least objection to the resolutions as moved, he should withdraw them.

Mr. TAYLOR, of New York, said that, in opposing this motion, he felt it due to himself to state, that, in respect for the memory and public services of the deceased, he yielded to no member of this House—not even to the honorable gentleman from Virginia. But it is with the most painful regret (said Mr. T.) I am constrained to say, that he died in the violation of the laws of God and his country. I therefore cannot consent, however deeply his loss is deplored by this House, in common with the na-

tion, to vote the distinguished and unusual honors proposed by these resolutions.

Mr. RANDOLPH then withdrew the resolves he had offered, and moved that the House do now adjourn—negatived.

MONDAY, March 27.

Message from the President—Non-ratification of the Spanish (Florida Cession) Treaty—Interposition of the Great Powers—Forbearance of President Monroe.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

I transmit to Congress an extract of a letter from the Minister Plenipotentiary of the United States at St. Petersburg, of the 1st of November last, on the subject of our relations with Spain, indicating the sentiments of the Emperor of Russia respecting the non-ratification, by His Catholic Majesty, of the treaty lately concluded between the United States and Spain, and the strong interest which His Imperial Majesty takes in promoting the ratification of that treaty. Of this friendly disposition, the most satisfactory assurance has been since given directly to this Government by the Minister of Russia residing here.

I transmit, also, to Congress, an extract of a letter from the Minister Plenipotentiary of the United States, at Madrid, of a later date than those heretofore communicated; by which it appears that, at the instance of the Chargé des Affaires of the Emperor of Russia, a new pledge had been given by the Spanish Government, that the Minister who had been lately appointed to the United States should set out on his mission without delay, with full powers to settle all differences in a manner satisfactory to the parties.

I have further to state that the Governments of France and Great Britain continue to manifest the sentiments heretofore communicated respecting the non-ratification of the treaty by Spain, and to interpose their good offices to promote its ratification.

It is proper to add that the Governments of France and Russia have expressed an earnest desire that the United States would take no step, for the present, on the principle of reprisal, which might possibly tend to disturb the peace between the United States and Spain. There is good cause to presume, from the delicate manner in which this sentiment has been conveyed, that it is founded in a belief, as well as a desire, that our just objects may be accomplished without the hazard of such an extremity.

On full consideration of all these circumstances, I have thought it my duty to submit to Congress whether it will not be advisable to postpone a decision on the questions now depending with Spain, until the next session. The distress of that nation, at this juncture, affords a motive for this forbearance, which cannot fail to be duly appreciated. Under such circumstances, the attention of the Spanish Government may be diverted from its foreign concerns, and the arrival of a Minister here be longer delayed. I am the more induced to suggest this course of proceeding from a knowledge that, while we shall thereby make a just return to the powers whose good offices have been acknowledged, and increase, by a new and signal proof of moderation, our claims on Spain, our attitude in regard to her will not be less favorable at the next session than it is at the present.*

JAMES MONROE.

WASHINGTON, *March* 27, 1820.

The Message and accompanying documents were referred to the Committee on Foreign Affairs.

FRIDAY, March 31.

Importation of Slaves.

The bill for the relief of Delisle, Dudley, and Van Cleef, being read a third time, and the question stated on its passage—

[This is a case in which the forfeiture has been incurred by the importation of six domestic servants (slaves) by a captain of a vessel from a foreign port—he being officially assured by the Consul of the United States resident there, in writing, that there was nothing in the laws of the United States forbidding the importation of family slaves, by a person importing himself into the United States. The bill proposes a remission of the forfeiture thus incurred without any intent to violate the law.]

Mr. FOOT, of Connecticut, said, the extreme anxiety and impatience of gentlemen to pass the bill under consideration had surprised him. Six weeks, said he, have been spent on a subject involving no principle which can compare, in point of importance, with this bill. The Missouri question did not involve the question of freedom or slavery, but merely whether slaves now in the country might be permitted to reside in the proposed new State; and whether Congress or Missouri possessed the power to decide. But, sir, we are called upon by this bill to remit a penalty incurred for a violation of our laws "to prohibit the importation of slaves into our country"—a law of all others which in my opinion should be rigidly enforced and most sacredly regarded. And, sir, I am astonished to hear gentlemen, who, on the Missouri question, which not only agitated this House, but the whole country, to its base, and threatened a dissolution of the Union; and gentlemen too,

* This interposition of the three great powers, (Great Britain, Russia, and France,) to prevent a rupture between the United States and Spain, and to procure from the latter the ratification of the Florida Cession Treaty, (concluded the year before,) is such high evidence of good will towards the United Ststes, and of desire to preserve peace among nations, that it cannot be too well remembered or too much valued by the American people. The recommendation of Mr. Monroe to Congress, founded upon this interposition, is also most honorable to him, both as a statesman and a just man; and it is pleasant and gratifying to reflect that this generous interposition and wise forbearance had their full effect—the delayed ratification being soon after given, and Spain and the United States left at peace and good will. And the names of the sovereigns thus obeying such enlightened and philanthropic impulse, deserve also to be remembered, and are here given: Alexander the First, Emperor of Russia; George the Fourth, of Great Britain, then Prince Regent; and Louis the Eighteenth, of France.

who, on that occasion, denounced all as the friends of slavery who honestly differed with them in opinion on the constitutional power of Congress; yes, sir, and who boldly declared that, fearless of all consequences, they would impose the restriction;—that these gentlemen should now be the advocates for a virtual repeal of the only law which prohibits the importation of slaves! Sir, if you pass this bill, you open your ports immediately to the importation of slaves, without number, under the head of *domestics*.

I entreat gentlemen to pause, if indeed, as they profess, they are disposed to prevent the slave trade. Go, sir, with me to Martinique, and witness the attempts made by citizens of the United States to smuggle slaves into the United States under this pretence! If they may be admitted as domestics, every vessel will be full-freighted with these domestic servants, and the slave will be as free as before the passage of your law.

But, say the gentlemen, this petitioner is innocent—he was ignorant of your laws. If so, I would ask, why did he apply to the commercial agent, to inquire whether *domestic* slaves might safely be brought? Look, sir, at the letter of the commercial agent to this petitioner, and say, if you can, that the petitioner was ignorant of our laws? No, sir, the petitioner knew our law—he, sir, knew it was in violation of that law—and if, sir, after this, he was disposed to trust the chance of escape or evasion of that law, which, of all others, should be most rigorously enforced, I shall never give my vote for his relief.

Pass this bill, sir, and you may employ your armies and navies in vain to break up this most inhuman and barbarous traffic.

The question on indefinite postponement was at length decided in the negative—89 to 67.

A doubt was then suggested by Mr. BARBOUR, whether Congress possessed the power to remit that portion of the forfeiture which by law accrues to the informers or prosecutors of the alleged offence, and whether the bill therefore did not, in this respect, require a limitation to that portion of the penalty which accrued to the United States.

Hereupon further debate took place; and a motion was made by Mr. PINDALL to recommit the bill, with instructions so to amend it as to remit only that portion of the forfeiture which has accrued to the use of the United States; which motion was decided affirmatively by a vote of 64 to 52.

MONDAY, April 3.

Fugitive Slaves.

Mr. PINDALL, of Virginia, offered for consideration the following resolution, in support of which he made some remarks, referring to the current report that an act of the description therein referred to had recently passed the Legislature of Pennsylvania.

Resolved, That the Secretary of the Treasury be instructed to procure and transmit to this House, as soon as practicable, a copy of such late act or acts of the Pennsylvania Legislature as prohibit or restrain the justices, aldermen, or other magistrates or officers of that State from interposing in the apprehension or surrender of fugitive slaves, [or from carrying into effect the act of Congress, entitled "An act respecting fugitives from justice and persons escaping from the service of their masters," passed on the 12th of February, 1793.]

Mr. MACLAY, of Pennsylvania, suggested that, if the object of the motion was only to obtain a copy of the act, the latter clause of the resolve was unnecessary, and he wished to see it expunged, because he did not think that any act had passed the Legislature prohibiting the State officers from carrying into effect the act of Congress.

To obviate this objection, Mr. PINDALL consented to modify his motion so as to omit the clause within brackets, at the close of the above resolve.

The resolve was then amended, on motion, by adding to the end of the resolution the words following: "Provided any such act or acts shall have been passed."

Mr. S. MOORE then moved to lay the resolution on the table; which motion was opposed by Mr. STROTHER, and it was negatived, and the resolution was agreed to.

Remission of Forfeiture.

The bill for the relief of Delisle, Dudley, and Van Cleef, providing for the remission of a forfeiture incurred by an accidental importation of six slaves, in the brig Sally, was read a third time; and the yeas and nays on its passage being required by Mr. TRACY, stood—For the bill 85, against the bill 73.

The Spanish Treaty.

The House having resolved itself into a Committee of the Whole on the state of the Union, and the following resolutions, submitted some days ago by Mr. CLAY, (Speaker,) being under consideration:

1. *Resolved*, That the Constitution of the United States vests in Congress the power to dispose of the territory belonging to them, and that no treaty, purporting to alienate any portion thereof, is valid without the concurrence of Congress.

2. *Resolved*, That the equivalent proposed to be given by Spain, to the United States, in the treaty, concluded between them, on the 22d day of February, 1819, for that part of Louisiana lying west of the Sabine, was inadequate; and that it would be inexpedient to make a transfer thereof to any foreign power, or renew the aforesaid treaty:

Mr. CLAY said, that, whilst he felt very grateful to the House for the prompt and respectful manner in which they had allowed him to enter upon the discussion of the resolutions which he had the honor of submitting to their notice, he must at the same time frankly say, that he thought their character and consideration, in the councils of this country, were concerned in

not letting the present session pass off without deliberating upon our affairs with Spain. In coming to the present session of Congress, it had been his anxious wish to be able to concur with the Executive branch of Government in the measures which it might conceive itself called on to recommend on that subject, for two reasons, of which the first, relating personally to himself, he would not trouble the committee with further noticing. The other was, that it appeared to him to be always desirable, in respect to the foreign action of this Government, that there should be a perfect coincidence in opinion between its several co-ordinate branches. In time, however, of peace, it might be allowable to those who are charged with the public interests, to entertain and express their views, although there might be some discordance between them. In a season of war, there should be no division in the public councils; but a united and vigorous exertion to bring the war to an honorable conclusion. For his part, whenever that calamity may befall his country, he would entertain but one wish, and that is, that success might crown our struggle, and the war be gloriously and honorably terminated. He would never refuse to share in the joys incident to the victory of our arms, nor to participate in the griefs of defeat and discomfiture. He concurred entirely in the sentiment once expressed by that illustrious hero, whose recent melancholy fall we all so sincerely deplore, that fortune may attend our country in whatever war it may be involved.

There were two systems of policy, he said, of which our Government had had the choice. The first was, by appealing to the justice and affections of Spain, to employ all those persuasives which could arise out of abstinence from any direct countenance to the cause of South America, and the observance of a strict neutrality. The other was, by appealing to her justice also, and to her fears, to prevail upon her to redress the injuries of which we complain—her fears, by a recognition of the independent governments of South America, and leaving her in a state of uncertainty as to the further step we might take in respect to those governments. The unratified treaty was the result of the first system. It could not be positively affirmed what effect the other system would have produced; but he verily believed that, whilst it rendered justice to those governments, and would have better comported with that magnanimous policy which ought to have characterized our own, it would have more successfully tended to an amicable and satisfactory arrangement of our differences with Spain.

The first system has so far failed. At the commencement of the session, the President recommended an enforcement of the provisions of the treaty. After three months' deliberation, the Committee of Foreign Affairs, not being able to concur with him, has made us a report recommending the seizure of Florida, in the nature of a reprisal. Now, the President recommends our postponement of the subject until the next session. It has been his (Mr. C.'s) intention, whenever the Committee of Foreign Affairs should engage the House to act upon their bill, to offer, as a substitute for it, the system which he thought it became this country to adopt, of which the occupation of Texas, as our own, would have been a part, and the recognition of the independent governments of South America another. If he did not now bring forward this system, it was because the committee proposed to withdraw their bill, and because he knew too much of the temper of the House and of the Executive, to think that it was advisable to bring it forward. He hoped that some suitable opportunity might occur, during the session, for considering the propriety of recognizing the independent governments of South America.

Whatever Mr. C. might think of the discretion which was evinced in recommending the postponement of the bill of the Committee of Foreign Relations, he could not think that the reasons assigned by the President for that recommendation were entitled to the weight which he had given them. Mr. C. thought that the House was called upon, by a high sense of duty, seriously to animadvert upon some of those reasons. He believed it was the first example, in the annals of the country, in which a course of policy, respecting one foreign power, which we must suppose had been deliberately considered, has been recommended to be abandoned, in a domestic communication from one to another co-ordinate branch of the Government, upon the avowed ground of the interposition of other foreign powers. And what was the nature of this interposition? It was evidenced by a cargo of scraps gathered up from this Chargé d'Affaires, and that of loose conversations held with this foreign Minister—and that perhaps mere levee conversations, without a commitment in writing, in a solitary instance, of any of the foreign parties concerned, except only in the case of his Imperial Majesty; and what was the character of his commitment we shall presently see. But Mr. C. said, he must enter his solemn protest against this and every other species of foreign interference in our matters with Spain. What have they to do with them? Would they not repel, as officious and insulting intrusions, any interference on our part in their concerns with other foreign States? Would his Imperial Majesty have listened with complacency to our remonstrances against the vast acquisitions which he has recently made? He has lately crammed his enormous maw with Finland and with the spoils of Poland, and, whilst the difficult process of digestion is going on, he throws himself upon a couch, and cries out—don't, don't disturb my repose!

He charges his Minister here to plead the cause of peace and concord! The American "Government is too enlightened" (ah! sir, how sweet this unction is, which is poured down our backs) to take hasty steps. And his Imperial

Majesty's minister here is required to engage (Mr. C. said he hoped that the original expression was less strong, but he believed that the French word *engage* bore the same meaning) the American Government, &c. Nevertheless, the Emperor does not interpose in this discussion. No! not he. He makes above all "no pretension to exercise an influence in the councils of a foreign power." Not the slightest. And yet, at the very instant when he is protesting against the imputation of this influence, his interposition is proving effectual! His Imperial Majesty has at least manifested so far, in this particular, his capacity to govern his Empire, by the selection of a sagacious Minister. For if Count Nesselrode had never written another paragraph, the extract from his dispatch to Mr. Poletica, which has been transmitted to this House, would demonstrate that he merited the confidence of his master. It was quite refreshing to read such State papers after perusing those (he was sorry to say it; he wished there was a veil broad and thick enough to conceal them forever) which this treaty had produced on the part of our own Government.

Conversations between my Lord Castlereagh and our Minister at London had also been communicated to this House. Nothing from the hand of his Lordship is produced; no! he does not commit himself in that way. The sense in which our Minister understood him, and the purport of certain parts of despatches from the British Government to its Minister at Madrid, which he deigned to read to our Minister, are alone communicated to us. Now we know very well how diplomatists, when it is their pleasure to do so, can wrap themselves up in mystery. No man more than my Lord Castlereagh, who is also an able Minister, possessing much greater talents than are allowed to him generally in this country, can successfully express himself in ambiguous language, when he chooses to employ it. Mr. C. recollected himself once to have witnessed this facility, on the part of his Lordship. The case was this. When Bonaparte made his escape from Elba and invaded France, a great part of Europe believed that it was with the connivance of the British Ministry. The opposition charged them, in Parliament, with it, and they were interrogated to know what measures of precaution they had taken against such an event. Lord Castlereagh replied by stating that there was an understanding with a certain naval officer of high rank, commanding in the adjacent seas, that he was to act on certain contingencies. Now, Mr. Chairman, if you can make any thing intelligible out of this reply, you will have much more success than the English opposition had.

The allowance of interference by foreign powers in the affairs of our Government, not pertaining to themselves, is against the counsels of our wisest politicians—those of Washington, Jefferson, and, he would add, also, those of the present Chief Magistrate; for, pending this very Spanish negotiation, the offer of the mediation of foreign States was declined, upon the true ground that Europe had her system, and we ours; and that it was not compatible with our policy to entangle ourselves in the labyrinths of hers. But a mediation is far preferable to the species of interference on which it had been his reluctant duty to comment. The mediator is a judge, placed on high, his conscience his guide, the world the spectators, and posterity his judge. His position is one, therefore, of the greatest responsibility. But what responsibility is there attached to this sort of irregular drawing-room, intriguing interposition? He could see no motive for governing or influencing our policy, in regard to Spain, furnished in any of the communications which respected the disposition of foreign powers. He regretted, for his part, that they had been at all consulted. There was nothing in the character of the power of Spain; nothing in the beneficial nature of the stipulations of the treaty to us, which warranted us in seeking the aid of foreign powers, if in any case whatever that aid was desirable. He was far from saying that, in the foreign action of this Government, it might not be prudent to keep a watchful eye upon the probable conduct of foreign powers. That might be a material circumstance to be taken into consideration. But he never would avow to our own people—never promulgate to foreign powers, that their wishes and interference were the controlling cause of our policy. Such promulgation would lead to the most alarming consequences. It was to invite further interposition. It might, in process of time, create in the bosom of our country a Russian faction, a British faction, a French faction. Every nation ought to be jealous of this species of interference, whatever was its form of government. But of all forms of government the united testimony of all history admonishes a republic to be most guarded against it. From the moment that Philip intermeddled in the affairs of Greece, the liberty of Greece was doomed to inevitable destruction.

Suppose, said Mr. C., we could see the communications which have passed between his Imperial Majesty and the British Government respectively, and Spain, in regard to the United States; what do you imagine would be their character? Do you suppose that the same language has been held to Spain and to us? Do you not, on the contrary, believe that sentiments have been expressed to her, consoling to her pride? That we have been represented, perhaps, as an ambitious republic, seeking to aggrandize ourselves at her expense?

In the other ground taken by the President, the present distressed condition of Spain, for his recommendation of forbearance to act during the present session, Mr. C. was sorry also to say that it did not appear to him to be solid. He could well conceive how the weakness of your aggressor might, when he was withholding from you justice, form a motive for your pressing your equitable demands upon him; but he could not accord in the wisdom of that policy which would wait his recovery of strength, so as to

enable him successfully to resist those demands. Nor would it comport with the practice of our own Government heretofore. Did we not, in 1811, when the present monarch of Spain was an ignoble captive, and the people of the Peninsula were contending for the inestimable privilege of self-government, seize and occupy that part of Louisiana which is situated between the Mississippi and the Perdido? What must the people of Spain think of that policy which would not spare them, and which commiserates alone an unworthy prince, who ignominiously surrendered himself to his enemy; a vile despot, of whom I cannot speak in appropriate language without departing from the respect due to this House or to myself? What must the people of South America think of this sympathy for Ferdinand, at a moment when they, as well as the people of the Peninsula themselves, (if we are to believe the late accounts, and God send they may be true,) are struggling for liberty?

Again: When we declared our late just war against Great Britain, did we wait for a moment when she was free from embarrassment and distress; or did we not rather wisely select a period when there was the greatest probability of giving success to our arms? What was the complaint in England; what the language of faction here? Was it not that we had cruelly proclaimed the war at a time when she was struggling for the liberties of the world? How truly, let the sequel and the voice of impartial history tell.

Whilst he could not, therefore, Mr. C. said, persuade himself that the reasons assigned by the President for postponing the subject of our Spanish affairs until another session, were entitled to all the weight which he seemed to think belonged to them, he did not, nevertheless, regret that the particular project recommended by the Committee of Foreign Relations was thus to be disposed of; for it was war, war, attempted to be disguised. And if we went to war, he thought it should have no other limit than indemnity for the past, and security for the future. He had no idea of the wisdom of that measure of hostility which would bind us, whilst the other party is left free.

Before he proceeded to consider the particular propositions which the resolutions contained which he had had the honor of submitting, it was material to determine the actual posture of our relations to Spain. He considered it too clear to need discussion, that the treaty was at an end; that it contained, in its present state, no obligation whatever upon us, and no obligation whatever on the part of Spain. It was as if it had never been. We are remitted back to the state of our rights and our demands which existed prior to the conclusion of the treaty, with this only difference, that, instead of being merged in, or weakened by the treaty, they have acquired all the additional force which the intervening time and the faithlessness of Spain can communicate to them. Standing on this position, he should not deem it necessary to interfere with the treaty-making power, if a fixed and persevering purpose had not been indicated by it, to obtain the revival of the treaty. Now, he thought it a bad treaty. The interest of the country, as it appeared to him, forbade its renewal. Being gone, it was perfectly incomprehensible to him why so much solicitude was manifested to restore it. Yet it is clung to with the same sort of frantic affection with which the bereaved mother hugs her dead infant in the vain hope of bringing it back to life.

Has the House of Representatives a right to express its opinion upon the arrangement made in that treaty? The President, by asking Congress to carry it into effect, has given us jurisdiction of the subject, if we had it not before. We derive from that circumstance the right to consider—first, if there be a treaty; secondly, if we ought to carry it into effect; and, thirdly, if there be no treaty, whether it be expedient to assert our rights, independent of the treaty. It will not be contended that we are restricted to that specific mode of redress which the President intimated in his opening Message.

The first resolution which he had presented, asserted that the constitution vests in the Congress of the United States the power to dispose of the territory belonging to them; and that no treaty, purporting to alienate any portion thereof, is valid, without the concurrence of Congress.

The proposition which it asserts was, he thought, sufficiently maintained by barely reading the clause in the constitution on which it rests: "The Congress shall have power to dispose of, &c., the territory, or other property, belonging to the United States."

It was far from his wish to renew at large a discussion of the treaty-making power. The Constitution of the United States had not defined the precise limits of that power, because, from the nature of it, they could not be prescribed. It appeared to him, however, that no safe American statesman would assign to it a boundless scope. He presumed, for example, that it would not be contended that, in a Government which was itself limited, there was a functionary without limit. The first great bound to the power in question, he apprehended, was that no treaty could constitutionally transcend the very objects and purposes of the Government itself. He thought, also, that, wherever there were specific grants of power to Congress, they limited or controlled, or, he would rather say, modified the exercise of the general grant of the treaty-making power, upon the principle which was familiar to every one. He did not insist that the treaty-making power could not act upon the subjects committed to the charge of Congress; he merely contended that the concurrence of Congress in its action upon those subjects, was necessary. Nor would he insist that the concurrence should precede that action. It would be always most desirable that it should precede it, if convenient, to guard against the commitment of Congress, on

the one hand, by the Executive, or, on the other, what might seem to be a violation of the faith of the country, pledged for the ratification of the treaty. But he was perfectly aware that it would be very often highly inconvenient to deliberate, in a body so numerous as Congress, on the nature of those terms on which it might be proper to treat with foreign powers. In the view of the subject which he had been taking, there was a much higher degree of security to the interests of the country. For, with all his respect for the President and Senate, it could not disparage the wisdom of their councils to add to it that of this House also. But if the concurrence of this House be not necessary in the cases asserted; if there be no restriction upon the power he was considering, it might draw to itself and absorb the whole of the powers of Government. To contract alliances, to stipulate for raising troops to be employed in a common war about to be waged, to grant subsidies, even to introduce foreign troops within the bosom of the country, were not unfrequent instances of the exercise of this power; and if, in all such cases, the honor and faith of the nation were committed, by the exclusive act of the President and Senate, the melancholy duty alone might be left to Congress of recording the ruin of the Republic.

The House of Representatives has uniformly maintained its right to deliberate upon those treaties in which their co-operation was asked by the Executive. In the first case that occurred in the progress of our Government, that of the treaty commonly called Mr. Jay's Treaty, after General Washington refused to communicate his instructions to that Minister, the House asserted its right, by fifty odd votes to thirty odd. In the last case that occurred, the Convention of 1815, with Great Britain, although it passed off upon what was called a compromise, this House substantially obtained its object; for, if that Convention operated as a repeal of the laws with which it was incompatible, the act which passed was altogether unnecessary.

Supposing, however, that no treaty which undertakes to dispose of the territory of the United States is valid without the concurrence of Congress, it may be contended that such treaty may constitutionally fix the limits of the territories of the United States, where they are disputed, without the co-operation of Congress. He admitted it, when the fixation of the limits simply was the object, as in the case of the river St. Croix, or the more recent stipulation in the Treaty of Ghent, or in that of the Treaty with Spain in 1795. In all these cases, the treaty-making power merely reduces to certainty that which was before unascertained. It announces the fact; it proclaims in a tangible form the existence of the boundary; it does not make a new boundary; it asserts only where the new boundary was. But it cannot under color of fixing a boundary previously existing, though not in fact marked, undertake to cede away, without the concurrence of Congress, whole provinces. If the subject be one of a mixed character; if it consists partly of cession, and partly of the fixation of a prior limit, he contended that the President must come here for the consent of Congress. But in the Florida Treaty it was not pretended that the object was simply a declaration of where the western limit of Louisiana was; it was, on the contrary, the case of an avowed cession of territory from the United States to Spain. The whole of the correspondence manifested that the respective parties to the negotiation were not engaged so much in an inquiry where the limit of Louisiana was, as that they were exchanging overtures as to where it should be. Hence we find various limits proposed and discussed. At one time the Mississippi is proposed; then the Missouri; then a river disoharging itself into the gulf east of the Sabine; a vast desert is proposed to separate the territories of the two powers; and finally the Sabine, which neither of the parties had ever contended was the ancient limit of Louisiana, is adopted, and the boundary is extended from its source by a line perfectly new and arbitrary; and the treaty itself proclaims its purpose to be a cession from the United States to Spain.

The second resolution comprehended three propositions; the first of which was, that the equivalent granted by Spain to the United States for the province of Texas was inadequate. To determine this it was necessary to estimate the value of what we gave and of what we received. This involved an inquiry into our claim to Texas. It was not his purpose to enter at large into this subject. He presumed the spectacle would not be presented of questioning, in this branch of the Government, our title to Texas, which had been constantly maintained by the Executive, for more than fifteen years past, under three several Administrations. He was at the same time ready and prepared to make out our title, if any one in this House were fearless enough to controvert it. He would for the present briefly state that the man who is most familiar with the transactions of this Government—who so largely participated in the formation of the constitution, and in all that has been done under it; who, besides the eminent services that he has rendered his country, principally contributed to the acquisition of Louisiana; and who must be supposed, from his various opportunities, best to know its limits—declared, fifteen years ago, that our title to the Rio del Norte was as well founded as it was to the island of New Orleans.

[Here Mr. C. read an extract from a memoir presented in 1805, by Mr. Monroe and Mr. Pinckney, to Mr. Cevallos, proving that the boundary of Louisiana extended eastward to the Perdido, and westward to the Rio del Norte; in which they say: "The facts and principles which justify this conclusion are so satisfactory to their Government as to convince it that the United States have not a better

right to the island of New Orleans, under the cession referred to, than they have to the whole district of territory thus described."

The title to the Perdido on the one side, and to the Rio del Norte on the other, rested on the same principle—the priority of discovery and occupation by France. Spain had first discovered and made an establishment at Pensacola—France at Dauphin Island in the Bay of Mobile. The intermediate space was unoccupied; and the principle observed among European nations having contiguous settlements—being that the unoccupied space between them should be equally divided—was applied to it, and the Perdido thus became the common boundary. So, west of the Mississippi, La Salle, acting under France, in 1682 or 1683, first discovered that river. In 1685, he made an establishment on the Bay of St. Bernard, west of the Colorado, emptying into it. The nearest Spanish settlement was Panuco, and the Rio del Norte, about the midway line, became the common boundary.

All accounts concurred in representing Texas to be extremely valuable. Its superficial extent was three or four times greater than that of Florida. The climate was delicious; the soil fertile; the margins of the rivers abounding in live oak; and the country admitting of easy settlement. It possessed, moreover, if he were not misinformed, one of the finest ports on the Gulf of Mexico. The productions of which it was capable were suited to our wants. The unfortunate captive of St. Helena wished for ships, commerce, and colonies. We have them all, if we do not wantonly throw them away. The colonies of other countries are separated from them by vast seas, requiring great expense to protect them, and are held subject to a constant risk of their being torn from their grasp. Our colonies, on the contrary, are united to and form a part of our continent; and the same Mississippi, from whose rich deposit the best of them (Louisiana) has been formed, will transport on her bosom the brave and patriotic men from her tributary streams to defend and preserve the next most valuable, the province of Texas.

We wanted Florida, or rather we *shall* want it, or, to speak yet more correctly, we want nobody else to have it. We do not desire it for immediate use. It fills a space in our imagination, and we wish it to complete the arrondissement of our territory. It must certainly come to us. The ripened fruit will not more surely fall. Florida is enclosed in between Alabama and Georgia, and cannot escape. Texas may. Whether we get Florida now or some five or ten years hence, is of no consequence, provided no other power gets it; and if any other power should attempt to take it, an existing act of Congress authorizes the President to prevent it. He was not disposed to disparage Florida, but its intrinsic value was incomparably less than that of Texas. Almost its sole value was military. The possession of it would undoubtedly communicate some additional security to Louisiana and to the American commerce in the Gulf of Mexico. But it was not very essential to have it for protection to Georgia and Alabama. There could be no attack upon either of them, by a foreign power, on the side of Florida. It now covered those States. Annexed to the United States, and we should have to extend our line of defence so as to embrace Florida. Far from being, therefore, a source of immediate profit, it would be the occasion of considerable immediate expense. The acquisition of it was certainly a fair object of our policy; and ought never to be lost sight of. It was even a laudable ambition in any Chief Magistrate to endeavor to illustrate the epoch of his administration by such an acquisition. It was less necessary, however, to fill the measure of the honors of the present Chief Magistrate than that of any other man, in consequence of the large share which he had in obtaining all Louisiana. But, whoever may deserve the renown which may attend the incorporation of Florida into our Confederacy, it is our business, as the representatives of the people, who are to pay the price of it, to take care, as far as we constitutionally can, that too much is not given. He would not give Texas for Florida in a naked exchange. We were bound by the treaty to give not merely Texas, but five millions of dollars also, and the excess beyond that sum of all our claims upon Spain, which have been variously estimated at from fifteen to twenty millions of dollars.

The public is not generally apprised of another large consideration which passed from us to Spain, if an interpretation which he had heard given to the treaty were just, and it was certainly plausible. Subsequent to the transfer, but before the delivery, of Louisiana from Spain to France, the then Governor of New Orleans (he believed his name was Gayoso) made a number of concessions upon the payment of an inconsiderable pecuniary consideration, amounting to between nine hundred thousand and a million of acres of land, similar to those recently made at Madrid to the royal favorites. This land is situated in Feliciana, and between the Mississippi and the Amite, in the present State of Louisiana. It was granted to persons who possessed the very best information of the country, and is no doubt, therefore, the choice land. The United States have never recognized, but have constantly denied the validity of these concessions. It is contended by the parties concerned that they are confirmed by the late treaty. By the second article his Catholic Majesty cedes to the United States, in full property and sovereignty, all the territories which belong to him, situated to the *eastward* of the Mississippi, known by the name of *East and West Florida.* And by the eighth article all the grants of land made before the 24th of January, 1818, by his Catholic Majesty, or by his *lawful authorities*, shall be ratified and confirmed, &c. Now, the grants in question, having been made long prior to that day, are sup-

posed to be confirmed. He understood, from a person interested, that Don Onis had assured him it was his intention to confirm them. Whether the American negotiator had the same intention or not, he (Mr. C.) did not know. It will not be pretended that the letter of Mr. Adams, of the 12th of March, 1818, in which he declines to treat any further with respect to any part of the territory included within the limits of the State of Louisiana, can control the operation of the subsequent treaty. That treaty must be interpreted by what is in it, and not by what is out of it. The overtures which passed between the parties respectively, prior to the conclusion of the treaty, can neither restrict nor enlarge its meaning. Moreover, when Mr. Madison occupied, in 1811, the country between the Mississippi and the Perdido, he declared that, in our hands, it should be, as it has been, subject to negotiation.

It results, then, that we have given for Florida, charged and incumbered as it is—

1st. Unincumbered Texas;

2d. Five millions of dollars;

3d. A surrender of all our claims upon Spain, not included in that five millions; and,

4th. If the interpretation of the treaty which he had stated were well founded, about a million of acres of the best unseated land in the State of Louisiana, worth perhaps ten millions of dollars.

The first proposition contained in the second resolution was thus, Mr. C. thought, fully sustained. The next was, that it was inexpedient to cede Texas to any foreign power. Mr. C. said he was opposed to the transfer of any part of the territories of the United States to any foreign power. They constituted, in his opinion, a sacred inheritance of posterity, which we ought to preserve unimpaired. He wished it was, if it were not a fundamental and inviolable law of the land, that they should be inalienable to any foreign power. It was quite evident that it was in the order of Providence; that it was an inevitable result of the principle of population, that the whole of this continent, including Texas, was to be peopled in process of time. The question was, by whose race shall it be peopled? In our hands it will be peopled by freemen, and the sons of freemen, carrying with them our language, our laws, and our liberties; establishing on the prairies of Texas temples dedicated to the simple and devout modes of worship of God incident to our religion, and temples dedicated to that freedom which we adore next to Him. In the hands of others, it may become the habitation of despotism and of slaves, subject to the vile dominion of the inquisition and of superstition. He knew that there were honest and enlightened men who feared that our Confederacy was already too large, and that there was danger of disruption arising out of the want of reciprocal coherence between its several parts. He hoped and believed that the principle of representation, and the formation of States, would preserve us a united people. But if Texas, after being peopled by us, and grappling with us, should, at some distant day, break off, she will carry along with her a noble crew, consisting of our children's children. The difference between those who might be disinclined to its annexation to our Confederacy, and him, was, that their system began where his might, possibly, in some distant future day, terminate; and that theirs began with a foreign race, aliens to every thing that we hold dear, and his ended with a race partaking of all our qualities.

The last proposition which the second resolution affirms, is, that it is inexpedient to renew the treaty. If Spain had promptly ratified it, bad as it is, he would have acquiesced in it. After the protracted negotiation which it terminated; after the irritating and exasperating correspondence which preceded it, he would have taken the treaty as a man who has passed a long and restless night, turning and tossing in his bed, snatches at day an hour's disturbed repose. But she would not ratify it; she would not consent to be bound by it, and she has liberated us from it. Is it wise to renew the negotiation, if it is to be recommenced by announcing to her at once our ultimatum? Shall we not give her the vantage ground? In early life he had sometimes indulged in a species of amusement, which years and experience had determined him to renounce, which, if the committee would allow him to use it, furnished him with a figure—Shall we enter on the game, with our hand exposed to the adversary, whilst he shuffles the cards to acquire more strength? What has lost us his ratification of the treaty? Incontestably our importunity to procure the ratification, and the hopes which that opportunity inspired, that he could yet obtain more from us. Let us undeceive him. Let us proclaim the acknowledged truth, that the treaty is prejudicial to the interests of this country. Are we not told, by the Secretary of State, in the bold and confident assertion, that Don Onis was authorized to grant us much more, and that Spain dare not deny his instructions? That the line of demarcation is far within his limits? If she would have then granted us more, is her position now more favorable to her in the negotiation? In our relations to foreign powers, it may be sometimes politic to sacrifice a portion of our rights to secure the residue. But is Spain such a power as that it becomes us to sacrifice those rights? Is she entitled to it by her justice, by her observance of good faith, or by her possible annoyance of us in the event of war? She will seek, as she has sought, procrastination in the negotiation, taking the treaty as the basis. She will dare to offend us, as she has insulted us, by asking the disgraceful stipulation that we shall not recognize the patriots. Let us put aside the treaty; tell her to grant us our rights, to their uttermost extent. And if she still palters, let us assert those rights by whatever measures it is for the interest of our country to adopt.

If the treaty were abandoned; if it were not on the contrary signified, too distinctly, that there was to be a continued and unremitting endeavor to obtain its revival, he would not think it advisable for this House to interpose. But, with all the information in our possession, and holding the opinions which he entertained, he thought it the bounden duty of the House to adopt the resolutions. He had acquitted himself of what he deemed a solemn duty, in bringing up the subject. Others would discharge theirs according to their own sense of them.

Mr. LOWNDES followed Mr. CLAY in the debate. Before entering into a discussion of the merits of the propositions submitted by the Speaker, he said, it appeared to him there was a previous question to be settled, the determination of which might preclude a decision of the main question on its merits. That question was, whether the attempt, on the part of this House, to take the conduct of negotiations with foreign powers into its hands would not be greatly prejudicial to the interests of the country? It was worthy of inquiry, also, whether it was consistent with prudence, or with wisdom, to engage in the discussion of propositions, the adoption of which would have that effect?

Mr. L. said he was far from considering the two resolutions now before the committee as of the same character. He was ready to admit that the consideration of the question, how far this House has a right to interpose in respect to treaties—of this theoretically abstract question—was not liable to the same objection as the discussion of the second resolve; but he should consider the consumption of time in its discussion utterly useless and wasteful at this moment.

The gentleman from Kentucky had made a remark, in relation to the late communication of the President to Congress, which, Mr. L. said, appeared to him to have arisen entirely from misapprehension of the nature of that communication. The gentleman considered the Message as founded on the wishes of those foreign powers whose views on the subject our Government had been apprised of. The best attention which he had been able to bestow on the subject, Mr. L. said, had led to conclusions totally different from this. The papers accompanying the Message were such as ought to have been communicated for the information of Congress, but were not the only grounds of the Message. Could any man read the Message without seeing that the ground of delay recommended by the President, is the probability, of which evidence is furnished in part by communications from the Ministers of foreign powers directly and indirectly to our Government, that the object of the United States may be accomplished without a resort to such measures as has been recommended by a committee of this House? It would be an extravagance of independence to say, not only that foreign nations should not interpose in a controversy between us and a foreign power, but that they should not even be allowed to furnish us with facts—with that information without which there was no wisdom in the conduct of foreign negotiations. Mr. L. quoted the Message of the President, to show that the only ground on which a delay of coercive measures against Spain was recommended, was, that there was reason to believe that the object of the United States might be attained without resorting to them. Was it at all extraordinary that information on this head should be obtained from foreign powers? Was it at all extraordinary that Spain should not develop her views to us, who are the adverse party, yet should disclose them to a power which is not a principal in the controversy, but her ally and a mutual friend? The Executive does not reject information from any quarter, and, least of all, from a quarter where it is most to be relied on. With regard to foreign interference, he should repel, with as much indignation as the gentleman from Kentucky, any attempt to intermeddle in our internal affairs. Yet, every man who would reflect on the condition in which, in the lapse of time, the United States may be placed, would see, that there might be cases in which, with all our repugnance to the interposition of foreign nations, we may be induced, as to collisions with foreign States, to consent to the arbitration of other foreign States, not interested in the controversy. Thus, such a provision had been made in regard to certain cases embraced by the Treaty of Ghent; and, at this very moment, one of the questions arising between us and Great Britain in regard to that treaty had been referred to the arbitration of the Emperor of Russia. If, as in the case provided for by the Treaty of Ghent, the mediation of a foreign power may be accepted with respect to questions of boundaries, may we not go so far as to say that there may be cases in which we shall pay considerable deference to the opinions of a disinterested foreign power where territorial acquisitions are concerned?

But, Mr. L. said, a remark of the gentleman from Kentucky, apart from the main question before the committee, seemed to require that he should, before proceeding further, say something of the condition in which the Committee of Foreign Relations, of which he was one, was placed by the Message from the President. Whether it was owing to insensibility or not, Mr. L. said he did not feel that awkwardness which the gentleman from Kentucky seemed to suppose that committee must feel. When the committee recommended the immediate occupation of Florida, and when they withdrew that recommendation, they acted on both occasions from the same motive. With one information one course might be correct, whilst with other information a different course would be proper. Though not satisfied that a different course should be pursued from that recommended by the committee, yet, a different

course being recommended by circumstances subsequently disclosed, indicating the feeling of the nation and the sentiment of this House, would a discussion of the subject have been deemed by any gentleman advantageous to the interests of the country? Ought the committee to have urged a decision on their proposition, when no possible advantage could have resulted from it? Must it not, on the contrary, have led to a discussion which would be as injurious as he would show that the present discussion would be, should he not succeed in a motion which he should make, as indiscreet as the gentleman might think it, to prevent the further discussion of it?

A strong objection, even to a discussion of the resolutions of the Speaker, was, that, in relation to both of them, no possible benefit could arise from the discussion of them—nay, that a discussion, in such a manner as to lead to a just decision of them, was impracticable. He asked any gentleman to say whether it was not apparent that the questions involved in them could not now be freely discussed? Under the circumstances, it certainly was; and, said he, a discussion into which we enter manacled, we ought not to enter at all.

With regard to the treaty-making power, Mr. L. said he was willing to admit, that, in relation to those stipulations which apply to subjects such as are among the enumerated powers of Congress, the sanction of the Representative body to them was necessary. He had, however, no intention to enter into this general argument. If discussed, said he, it would force us into an extent of discussion for which the limits of the cession would be too narrow. It would include not only all the discussions of 1795 and 1816, but would open new grounds. The Speaker himself, he presumed, would not be disposed to insist that this House has a power, in relation to a treaty stipulating for a cession of territory, which it has not in relation to a stipulation for the payment of money. If there be a power peculiarly ours, said Mr. L., it is the power over the purse of the nation. If it be contended that neither can territory be ceded, nor money paid, without the consent of this House, there is a question beyond that again; will you maintain that a *claim*, on our part, for money or for territory, however well founded, cannot be yielded? Such cases were peculiarly a subject for treaty stipulations. The very treaty of which we are speaking contains a renunciation of claims. In case of a claim on your part, not recognized by the opposite party, your rights may be renounced, by treaty, for an equivalent, &c. Mr. L. said he had no disposition to enter at large or systematically into the question respecting the treaty-making power; but the observation which he had made connected itself with another.

Gentlemen conversant with the history of the proceedings of Congress, might recollect the ground taken by the gentleman who is now our distinguished Minister in France; that, in addition to those powers purely Executive, which did not come in conflict with the powers of the House of Representatives, Mr. Gallatin admitted, in the great debate of 1795, there was another and a resulting power which did belong to the treaty-making authority. That, for example, to a stipulation that any act should *not* pass, the consent of the House of Representatives was not necessary, because the President and Senate, being branches of Congress, had it in their power to enforce and fulfil the treaty, by withholding their assent from any such act. Apply that argument to the case of a renunciation of a claim for money or for territory. Not being in the possession either of our Government or of a foreign power, it could be reclaimed or renounced only by negotiation or by war, and to either course the consent of the negotiating power was necessary, &c. In relation to questions of boundary, it was admitted on all hands that the treaty-making authority was competent to their adjustment; its competency must be equally admitted in relation to all unadjusted claims. He submitted then to the committee, whether there could be any case of an adjustment of a claim to boundary, which did not include a cession of supposed right to territory by one or the other party. You may establish points; you may say there a colony was planted—here a man was shipwrecked; you may assert that these points include the territory to which you have a right; but the lines of your boundary must, after all, be adjusted by negotiation—by reciprocal agreement. Mr. L. said he should be sorry if it should be inferred, from what he had said, that he was of opinion that the ground assumed in the resolution was decidedly erroneous. That it asserted a power much greater than had heretofore been claimed for the House of Representatives, he was confident; but he did not mean to say that he had formed a decided opinion different from that of the gentleman from Kentucky on this point. He had thought of it but for a day or two. It was, however, a question into which he thought the House ought not wantonly and uselessly to enter, especially as it had now no superfluous time on its hands.

[Here, the hour being late, Mr. LOWNDES complied with the wish of a gentleman near him, and gave way for an adjournment. The next day he resumed his remarks.]

Mr. L. did not, he repeated, intend to express any opinion affirmatively or negatively on the proposition contained in the first of the above resolutions. But, he said, it touched a subject so complicated and difficult as to make it necessary, if acted on at all, that it should occupy a much greater portion of time in the discussion than could be spared at this period of the session for the discussion of an abstract proposition. There must be many gentlemen on this floor who recollected the length and arduous nature of the discussion of 1795 on this subject. There were none who could not see that the

resolution of the Speaker embraced a larger object than was embraced by that of 1795. The conclusion must be, that, if decided at all by this House, it would be after a long discussion. But, suppose the resolution went no further than that of 1795—however strong might be the opinion of a majority in favor of the resolution of 1795—it could not be expected but there would be some debate on such a proposition. The smaller the minority, the stronger the reason why their arguments should be heard, and laid before the public. The resolution of 1795 remains on the journals, and there could be no reason assigned, even did this resolution go no further than that, for reaffirming it. But this resolution goes much further than that of 1795, or than the doctrines advanced by any who took part in that discussion. It was not then, as far as Mr. L. knew, contended by any one, that in relation to territory claimed by us, but not in our possession, a treaty for the adjustment of the title would require the sanction of this House. Would it be prudent, said he, by anticipation, when we know not of any circumstances which make the decision of this question necessary, to undertake to decide it? Is there any member of this committee who supposes that the effect of a decision in favor of this proposition will be to preclude a discussion and decision of the question hereafter, should the treaty be eventually ratified. Mr. L. presumed not. Indeed, he said, were this proposition to be discussed now for a week, it would only serve to prepare the ground for another discussion hereafter.

Whilst, however, he had no other objection to the discussion of the first resolution, but what arose from a regard to the economy of time, he had much stronger objections to the consideration and decision of the second. He did not understand how any decision, or even free discussion of that question, could take place without endangering the important interests of the country. This he was sure the Speaker would do as unwillingly as any man. But, said he, pending the ratification of the treaty by Spain, are we to enter into the question of our title to the territory as far as the Rio del Norte? Would it be prudent to do so? Certainly not. Yet, if there was an unreserved discussion, that must be the preliminary step. Do you attach any consequence to a resolution of this kind? Do you expect it to have an influence at home, and to be respected abroad; and do you not begin by a laborious and careful examination of your right to the territory in question? Will you come to a formal and solemn annunciation that you are fully entitled to all this territory, without deliberately and temperately examining the grounds on which that right rests? If you determine that you will write instructions to our negotiators; that we shall on this floor prescribe what the conditions of a treaty for a settlement of limits shall be, it becomes necessary that the title of the respective parties shall be fully investigated. Our open doors show that this is not the place to discuss what we will ask in a negotiation with a foreign power, and what we will be content to receive. It would be, to use the Speaker's figure, to display our open hand to our adversary, his being concealed, as ours ought to be.

It had been doubted, Mr. L. said, whether the other branch of the Legislature has a right to join in instructions given to our diplomatic agents with regard to the terms of a treaty. From convenience, at least, this power, given to the Senate almost by the terms of the constitution, had not, under the practical construction of that instrument, been latterly exercised by the Senate, but the Executive had been entirely charged with that duty and that responsibility.

Mr. L. enlarged upon the inconvenience of a public discussion here of what, in an amicable negotiation, we mean to insist on, and what we mean to give up. He had no objection to saying, for himself, what he would do on that head. But, he said, if a discussion was to take place on the formal proposition contained in this resolution, unless the discussion was to be utterly unmeaning, it would be necessary to examine as well the validity of titles as the relative value of territory, &c. It was unnecessary for him to assign reasons why an inquiry into the validity of title would be injurious. They were sufficiently obvious. With regard to the value of the territory in question, if the members were fully informed on the subject, it would yet be needless to discuss it. But, he said, he believed the requisite information was not at hand. For his part, although he had paid considerable attention to the subject, and gathered information from all sources accessible to him, he had never heard, respecting the value of the province of Texas, any estimate of its seaport in any degree corresponding with that given by the honorable gentleman from Kentucky.

If the House was called on to vote on this resolution, it was above all desirable that they should understand it. Mr. L. said he thought he understood it. Its meaning clearly was, that it was inexpedient to cede any part of the territory which we have west of the Sabine. Suppose our claim to that territory to be undoubted, said he, are we prepared to say, however worthless it may be, however great the equivalent for it, that we will give up no part of it for any territory, however essential or important to us? Now, for myself, I am not ready to say, that I am not willing to give up any thing west of the Sabine for any consideration whatever. If there be any territory of doubtful value, I am not prepared to say that there is in the rest of the world nothing of so much value that I might not be induced to exchange the one for the other.

Mr. L. therefore was opposed to engaging in this discussion, and because he considered the second resolve to embrace an object adverse to the interests of the country, as well as contrary

to the spirit of the constitution. That this House, according to the view of the Speaker, might have some power in regard to treaties for the cession or acquisition of territory, he did not now mean to deny. But, whatever that power was, he thought that a just view of the principles of the constitution would necessarily require that it should be a restraining, and not a directing power. If, in progress of time, this House should adopt the practice of giving instruction to our Ministers, or, what is the same thing, of determining beforehand, as now proposed, what should be yielded and what retained, the effect would be to divide the responsibility of the different departments of the Government, and destroy altogether that of the treaty-making power. That there was in this House a corrective power, to restrain the treaty-making power in a course not believed to be beneficial to the interests of the country, he was ready to admit; but, whilst he admitted this, it was a power which, he said, ought to be exercised with great discretion. Otherwise, instead of restraining the Executive power, the effect would be, to increase its power by diminishing its responsibility. As a common rule of action, therefore, he was in favor of leaving the powers of the Government where the constitution had placed them.

If any case could arise in which the Executive would pursue a policy so repugnant to the true interests of the country as to justify the interposition of this House, Mr. L. said, it would be one the very reverse of that now under consideration. It would hardly ever happen that an Executive would be averse to enlarging the boundaries of the nation, or be accused of a desire to restrict them to too narrow a limit. In the Executive branch of every Government, the disposition is naturally favorable to the extension of territory and the enlargement of its power. He thought that we may safely intrust to the Executive of this Government the charge of supporting the rights of the country, and extending its territorial limits as far as justice and sound policy will allow.

Mr. L. made some remarks to show that no advantage could result from the adoption of this resolve. If, indeed, it was proposed to employ force to support it, there might be some ground. Otherwise, he contended, to pass them would not only be useless, but injurious.

But, Mr. L. said, he would refrain from entering into the general questions of policy growing out of this resolution; but, in relation to the province of Texas, he would say that, if Florida were not necessary to us, and therefore a desirable acquisition, in exchange for any claim we may be supposed to have to Texas, he should not think it important to occupy Texas at this time. If we have a just claim to that province, the treaty being rejected, it will be at any time in our power to enforce it. Lying between us and Mexico, its destiny must always essentially depend on, as it is connected with, American interests. Whatever claim we have to Texas, it is a claim which we are able to support and enforce. This is an opinion, said Mr. L., which the Speaker applies to Florida, and I to Texas.

Mr. L. asked the members of the committee to cast their eye a little forward, and see if the connection between Mexico and Spain should be dissolved, what motive could Spain have for desiring to retain the possession of the province of Texas. What has been her object in ceding Florida? To get in exchange a boundary, well-defined, between Mexico and the United States. To secure herself against (what she believes, and what Mr. L. feared all the powers of Europe believed) our ambition, she was willing to cede Florida. But suppose the connection between Spain and Mexico to be dissolved; suppose all hope, on her part, of her resuming the control of that country was destroyed; what motive could she have for ceding Florida? Mr. L. said he had not adverted to this contingency with a single view to her relinquishment of Florida to us, but with a view also to the preponderance which a reduction to a single island of the colonial possessions of Spain would give to another power; when Spain would no longer be mistress of her own actions, but the agent to serve the interests of another power. And, if we relinquished now the acquisition of Florida in order to gain Texas, that in the contingency just adverted to, when Florida was overflowed with Royalists, and the value of Cuba increased, what possible motive could Spain have, under such circumstances, for the cession of Florida to us? We must obtain it then by force, or not at all. But it would always be as easy a matter as it may be now to obtain Florida by force. It would be more easy, he said, to obtain Canada by force, than it would be to obtain Florida by force, if the power to whom it belonged was determined to hold it. It would be an error fatal to the best interests of the country, to refuse to receive Florida into our possession whilst we can. Mr. L. did not say that it was so important an acquisition that it ought not for any consideration to be postponed for a day; but, that a combination of circumstances make that practical now which may not be a year or two hence, he thought was very clear.

Mr. L. concluded by saying, that he had had no intention of entering into the general discussion of these resolves. He meant only to show that they could not be discussed without giving so much time to the subject as could not be afforded at this time; and that the discussion would, moreover, be prejudicial to the public interests. Under these circumstances, he thought it his duty to move to lay the resolution on the table.

TUESDAY, April 4.

The Spanish Treaty.

The House then again resolved itself into a

Committee of the Whole on the resolutions submitted by Mr. CLAY, respecting the treaty-making power, and particularly respecting the Treaty with Spain, yet unratified by Spain.

Mr. LOWNDES concluded his remarks, going to show why the resolutions should not be acted on. His remarks are given entire in preceding pages.

When Mr. LOWNDES finished, he moved to lay the first resolve on the table. After some conversation, in which Mr CLAY suggested that the best course would be for the committee to report the resolves to the House, and for the gentleman then to move to postpone the resolves, or lay them on the table, on which motion the yeas and nays could be recorded, Mr. L. consented to waive his motion for the present.

Mr. ARCHER, of Virginia, said, that the withdrawal of the motion of the gentleman from South Carolina (Mr. LOWNDES) having removed the obstacle to discussion of the resolutions under consideration, he would proceed to submit his views of them to the committee. The attention of this body, Mr. A. observed, was a species of joint stock concern, of which all its members were equally participant in interest. He now appeared, for the first time, to assert a claim to any share, and he did not doubt that the claim would meet with due allowance from the courtesy of the committee, unless indeed the fund on which it was addressed, had already been exhausted by the drafts which had been made upon it. One recommendation this claim would have, that it would not be an immoderate one. And Mr. A. believed that the general remark in reference to demands upon the public, that moderation in their amount formed no unessential condition of their success, had, in no instance, stronger application than in relation to demands addressed to the patience of the assembly.

Mr. A. adverted to the place which this subject of relations with Spain had recently occupied in the public attention, and the universal expectation that some measure expressive of the sense of Congress would, before this period of the session, have been adopted. The measure which, after long delay, the gentleman from South Carolina (Mr. LOWNDES) had reported from the Committee of Foreign Relations, had been recently wrested from the consideration of this House, in consequence of the suggestion of a foreign potentate, who, Mr. A. believed, was pretty much in the habit of exerting an operative influence in the affairs of other States, with the same disclaimer, it was probable, in every instance, of an intention to do so, which had been employed in relation to ourselves. If the motion which the gentleman from South Carolina had intimated an intention to renew, should prevail, a fate similar to that which had attended his own proposition would be reserved for the propositions now under consideration. Mr. A. confessed that he felt surprise at the intimation of resort to such a course, both on account of the importance of the subject and the character of the proceeding itself—the subject involving, as it did, the policy of the alienation of perhaps the most valuable portion, in proportion to its extent, of the territory of the Union, was surely well entitled to consideration from its magnitude. In this respect it was to be regarded as second only to the question which had been connected with the discussion of the Missouri bill, to which indeed it bore a strong character of affinity. That question related to the propriety of the transfer of the common territorial property of the Union, to the exclusive benefit of the population of one portion of it. The question now presented involved a consideration of the policy (which it was the purpose of the resolutions to counteract) of the transfer of the most valuable portion of this common property to a foreign power. If a question involving a consideration of great momentous character, had no claim to the maturest deliberation of the House, Mr. A. was unaware of any which could be regarded as invested with such a claim. The effect, too, of the success of the motion of the gentleman from South Carolina ought not to escape observation. It would be to preclude all effective expression of the public sentiment in relation to the policy of the ratification of the Spanish treaty. The case had no resemblance to that of an ordinary postponement of a subject, the consideration of which might, at a succeeding session of Congress, be resumed. Every person knew that, before the ensuing session of Congress, the treaty would be ratified. The Government of Spain could have no other design in sending the Minister who was known to have been despatched here. And the determination which would operate with our own Government to accept the ratification (unless this determination should be arrested by the expression of public sentiment in some mode) could not be a subject of question. The prevalence of the motion to lay the resolutions on the table would then be decisive in relation to the important interest conceived to be involved in their adoption. By the policy of avoiding conflict, the fruits of complete victory would be achieved.

In contemplating this question, the attention could not fail, Mr. A. said, to be attracted to the extravagance of the pretensions of this treaty-making power. In point of extent, the power claimed to cover all the objects which fall within the scope of international stipulation, that is to say, all the objects of national interest, which were not of essential municipal character. This was the claim in point of extent of jurisdiction. In point of force of authority, the power claimed the exertion not only of a superseding, but a mandatory influence, over the legislative department, the direct Representatives of the national authority, in relation to all subjects of its exercise, whether comprehended or not, within the delegation of jurisdiction to that department of the Govern-

ment. The claim was not only to exclude Congress from all participation of control over subjects specifically submitted to its control by the constitution, but to bind it to an undeliberating ministerial execution of the stipulations of the President and Senate, in relation to these same subjects, wherever they might require the intervention of legislative details, and a resort to municipal authority, for execution. The exertion of the power of the President and Senate was said, by committing the public faith for its stipulations, to bind the other departments of the Government to an obligation of co-operation in the objects of those stipulations. Such was the claim of this treaty-making power in point of authority. The first remark, Mr. A. said, which arose upon this statement of the character of the power, related to its effect, where the co-operation of legislative and executive authorities were admitted to be required, to confound the appropriate functions of these authorities. To the President and Senate were assigned the exclusive faculty of exercising deliberation; and on Congress was imposed the unqualified duty of conforming to and effectuating, without any exercise of discretion, the results of that deliberation.

Such an assignation of functions would present a case of political anomaly which was not predicable of the character of the constitution. The entire exclusion of Congress from authority over the subjects assigned to the jurisdiction of the treaty-making power, would involve no political inconsistency. This was designed in relation to all but a particular class of subjects. But, if the operation of the legislative power were admitted at all, it could only be admitted in its proper character of power involving essentially the exercise of discretion. The recognition, therefore, of the necessity for the co-operation of the authority of Congress in the execution of treaty stipulations, was, in relation to all the subjects to which it extended, a recognition of the legislative, as a part of, and a check upon, the treaty-making power.

Mr. A. had been adverting to a statement of the pretensions of this treaty-making power, as furnishing evidence sufficient, to his mind, to condemn them. If other evidence were wanted, it would be found in the discrepancy which the power in the extension claimed for it, presented to the character of the general grant of power contained in the constitution, and of the more important particular powers which made up the composition of that grant. It was to be expected of every political system, and more especially of a system sprung from men so illustrious for wisdom as the framers of our federal form of polity, that it would be found presenting a general consistency of structure and elements. But the constitution was admitted to convey but a limited grant of power. All its more important component powers, the power over the purse, over the sword, the power of punishment, were limited by express restrictive or qualifying provisions. The admission of the treaty-making power, therefore, in the absolute, unrestricted character it assumed to wear, would be a violation of the whole consistency of the constitution.

Mr. A. said that a person observing, with any degree of attention, the progress of our Government, could not fail to be struck with the conflict between many of the principles adopted in the construction of the constitution, and its true character and intendment. The framers of this instrument had expended the resources of an incomparable wisdom, in devising limitations on the powers which it conveyed, and in the contrivance of adequate safeguards against the exercise of other powers. In the illusion of a generous confidence, they had no doubt conceived that these safeguards would be found sufficient. But, in the current of the administration of a constitutional government, there was generated a reptile destructive or dangerous to the dams and mounds which were instituted to restrain it. The name of this reptile was *construction*. Such was its fecundity, that it was impossible to extinguish the race. Such was its subtlety and activity of nature, that it was difficult to counteract its operations. This reptile had been at work in the mounds of our constitution, nor was it a little to be feared that the breaches had already been effected which were destined, in future time, to give a general admission to discretionary power.

The power of the President and Senate to alienate territory, might, perhaps, be inferred as a consequence of their power to acquire it. Mr. A. objected to the consequence as illogical, and protested against the mode of construing the powers of the Government by which it must be derived. An incidental power would have to be derived from an incidental power; and this first incident, the source of others, was itself supposed to be derived in a mode still more unauthorized, not from any specific power, but as a result of the general collective powers and sovereign character of the Government. In such a mode of derivation of power, it was obvious that the efficacy of specification in the grant of it, would be destroyed, and a political constitution, as respected any purpose of limitation on the exercise of power, be converted to a name. It was inevitable, indeed, that every political constitution should admit the exercise of implied and incidental powers, as a result of the compendious simplicity of an instrument of this character. But the danger of abuse and injury from this source was guarded, if not obviated, by a mode of construction (the only one which did not outrage a constitution of enumerated powers) which required that the power made the source, as well as that which was made the subject of derivation, should be specific; and that the relation between them should be essential and immediate. Principles the reverse of these appeared, however, to be obtaining an ascendency. The operation of the mischief was to be seen, indeed, at this time, only in its commencement. But the end of this

thing, Mr. A. said, was death. The malady might now present only an eruptive appearance on the surface, but it would be found to be progressive to the heart of the constitution; would communicate eventually to the system, the unnatural activity of despotism; and of unnatural action, if not arrested, whether in bodies political or physical, there was but one result, and that result was dissolution.

Mr. A. could not abstain from remarking (though the remark had no immediate relevancy to the question) on the unlimited character of the power of legislation, which was assumed in our Government, in relation to the national territories. Authority was arrogated to legislate on this subject at discretion, and an instance of the fullest indulgence of it had occurred at the present session of Congress, (in the measure for the interdiction of slavery in a portion of the Territories.) Take this power of discretionary regulation, in connection with the acknowledged power to refuse admission of a Territory into the Union, and what was the result? A power was arrogated to regulate discretionally, and a power conceded to retain the Territories at pleasure in subjection to the authority invested with this power of discretionary regulation. Let the extent and susceptibility of importance of the Territories be considered, and what was the spectacle which, under the practical operation of the doctrine asserted, our Government might come to present? The spectacle of an authority strictly limited within its appropriate sphere of operation, exerting unlimited powers in a coextensive collateral sphere of operation. It would be a condition like that of the Roman Republic in an advanced stage of its progress, in which, characterized by *the forms* of a limited Government at home, it wielded without control the uncounted resources and power of the provinces. To the issue of this condition of things in that Republic it was not necessary to advert, nor to pursue the train of reflection which it was calculated to suggest.

The powers appertaining to the treaty-making department, and those granted to Congress over particular classes of subjects, presenting the appearance of conflict, the object of a just constitution would be to reconcile them by allowing to both, if possible, a due operation. But this object could only be attained by the mode which had been suggested, of allowing them a concurrent operation over the subjects which present the apparent occasion of conflict. This construction was in consistency with all received rules in relation to questions of this sort. It was an established principle, which had been adverted to, (by the Speaker,) that in cases of the conflict of particular with general expressions, the general must give way to the particular expression. And why? Because rules of construction being nothing more than contrivances for the ascertainment of intention, what was equivocal in a general, became explicit in a particular expression. The construction stated derived corroboration in the present instance of its application, from a consideration of the momentous character of the subjects of power which it operated to detach from the executive, to confide to the concurrent treaty-making jurisdiction; and from a consideration of the affinity which it tended to stamp on the treaty-making power, to the general policy and character of the constitution, and to the peculiar character of the more important specific powers which it comprised.

There was one consideration upon the subject of this controversy, in relation to the extent of the treaty-making power, which appeared to Mr. A. to be conclusive. It was this, that the exclusive control claimed for the power, was not pretended to extend to all the subjects submitted to Congress by the constitution. There were several which this exclusive control was admitted not to cover. The powers to borrow money; to make war; to raise armies; to admit new States, were examples. But where was the ground of distinction between these subjects and those over which an exclusive, superseding control was claimed? It was not to be found in the constitution. There these several classes of subjects were placed on the same exact footing. The powers conveyed to Congress were all conveyed in the same terms. The distinction was not to be found in any peculiar importance of the abdicated subjects. All were important. Was the distinction to be found in the supposed external relation of the class of arrogated subjects, rendering them in a peculiar degree adapted to become the objects of treaty stipulation? These subjects were not distinguished by this character in any greater degree than several of the abdicated subjects; of which the powers of making war and raising armies were instances. The danger, too, with which the argument derived from this principle of construction was fraught, ought not to escape observation. Let the principle be admitted, and it would be only necessary to give to exercises of power the form of treaty stipulation, and any power might be exercised, and any object attained, by the Executive department, however remote from the proper sphere of its control. Finally, if the distinction between the jurisdiction arrogated, and that renounced, by the treaty-making power, were made to rest on the peculiar character of the treaty stipulations, as being susceptible of execution, independently of legislative aid, or as requiring that aid for their execution, the answer was equally obvious with those which had been stated to other supposed principles of distinction. It was this, that there were various supposable cases of stipulation having no dependence on legislative aid for execution, which yet the consent of all men would reject from the exclusive control of the treaty-making power. One example, suggested by recent occurrences, should be adduced. A new State, provided its government were organized, and the form republican, might be admitted

into the Union without any necessary intervention of legislative authority, by a treaty stipulating that it should send two Senators and one Representative to Congress. There was a republican government now organized among the blacks in the island of Hayti. If the doctrines asserted in relation to the extent of the treaty-making power were just, what was there to hinder the admission of this Republic into the Union, if the President and Senate were to be of opinion to admit it? Here was a case requiring no intervention of legislative aid. Here was a case, which, from its character of external relation, fell within the class of the appropriate objects of treaty stipulation. It was sufficient for the argument, that the case was a possible one. Mr. A. did not affect to insinuate that the realization ever could be thought of. Considering, however, the value of West India possessions, there was a possible composition of the Executive department, in which the realization was by no means inconceivable. Constitutional doctrines, however, could not be sound, which involved the possibility of such a consequence.

There were several propositions asserted by the resolution—the disproportion of the equivalent rendered by Spain for our concessions in the treaty; the general impolicy of the transfer of the territory ceded on our part to any foreign power; and the inexpediency as a consequence of these, of the ratification of the treaty, now that the option of our Government was restored, to ratify or reject it. Was, then, the equivalent stipulated to be rendered by them disproportionate, and was it impolitic to make a transfer to any foreign power of the territory we had stipulated to cede? What were the relative concessions of the contracting parties? On the side of the United States, five millions of dollars to be paid, in part discharge of claims of our citizens upon Spain; the abandonment of the residue of these claims; of which, as they stood in the same character, the allowance of this part was, in effect, a recognition to the amount of $15,000,000, as had been stated (by the honorable Speaker;) the privilege to the subjects of Spain, carrying on commerce with the territory we were to acquire, of admission into its ports on the same terms with our own citizens, for the period of twelve years from the ratification of the treaty; and, finally, the territory of Texas, which we stipulated to cede. Placing out of view the other parts of this concession, what was the character and value of this territory of Texas? The full value we were not possessed of sufficient information, it was probable, to enable us to appreciate. Enough, however, was known to ascertain its superiority in this respect to the province, as part of the consideration of which it was proposed to be transferred. In superficial extent, Texas would not be denied to be several times larger than Florida. In a general character of fertility, the two countries, according to the accounts which Mr. A. had received, admitted of no comparison, so decidedly was the advantage on the side of the former of them. Placed in a near vicinity to South America, the province asserted still more signally, to the character of its productions, its affinity to the peculiar natural advantages which distinguish, in a manner so remarkable, that most favored portion of the earth. Productions of the highest value, and supposed to be the most widely diversified, as respected the soil and climate they required, found here a point of neighborhood and union. Corn, cotton, sugar, met a congenial soil, and circumstances favorable to their production. The climate was of extraordinary salubrity—the rivers various and large. And what was the consideration for which we were to surrender a country such as this had been described; of immense extent, possessed of every natural advantage, destined by the most signal evidences to high political importance? Was it for the sands of Florida? No, not for the property, but for little more than the sovereignty of these sands. For, independently of the grants to Alagon, and Vargas, and Punon Rostro, which had been the subjects of recent contestation, the largest and the most valuable portion of the soil of Florida was known to have been granted out. The recent contested grants had only been of the residuary lands. In the bargain which had been made we were to give the sovereignty and nearly the whole, Mr. A. presumed, of the soil of Texas, such as it had been described, for little more, comparatively speaking, than the sovereignty of Florida. Was the bargain one which, in this obvious view of its character, with perfect liberty to accept or reject it, it would be expedient to confirm? But, great importance was attributed to Florida in a military and political point of view.

Without any design of derogation from the importance of Florida in this respect, did this consideration, Mr. A. asked, render its acquisition at this time, and at the price of any disproportionate equivalent, an object of reasonable solicitude on our part? He apprehended that it did not. Whatever might be the advantages presented by this country for purposes of military or commercial annoyance, in the hands of Spain, it could not be rendered subservient to any such purposes against us. Spain did not possess, nor had the faculty of acquiring means and resources, military or naval, which could be applied to such objects. Nor, if she possessed, or could acquire them, could it ever be her policy to avail herself of the position of Florida, to employ them against this country.

In proof of this, the single consideration was sufficient, that the inevitable result of the pursuit of such a policy would be the loss of the province in question, without the possibility of indemnification. This result, it would be admitted, could not be prevented by any exertion or contingency of events. The acquisition of Florida was, therefore, an object of no considerable importance as related to any view of

danger of its being used for purposes of annoyance by Spain. The ground of apprehension was as slight from any other quarter. The Indian inhabitants would be in no great degree more likely to give us disturbance, if the country continued in the hands of Spain, than if it were transferred to our own. Nor was fear indeed to be indulged of disturbance from this source, while the life or the memory of Jackson among his Indian adversaries were preserved. For danger, proceeding from any European power other than Spain, we had already made an adequate provision by a law giving authority to the President to prevent the occupation of Florida by a foreign power. Mr. A. said that, in the policy of this law, he entirely concurred. While he should be opposed to the occupation of the country by ourselves, at least under present circumstances, when he would be averse to any measure by which the hazard of war might be incurred, he should, at all times and under all circumstances, consider the prevention of the occupation of Florida by any other foreign power than Spain, as a measure of indisputable and unimpeachable policy, on the part of this country. It stood justified to his mind by considerations admitted to be paramount to all others—of defence and preservation. No power could have either interest or motive in the acquisition of Florida, unconnected with views to our annoyance, and a policy dictated by such views, it was at all times as justifiable as it was necessary to repel. Whatever, then, might be the intrinsic importance of Florida in a political point of view, its acquisition could not be considered as demanded of us at this time at the price of any concession disproportioned to its proper value.

But was this character of importance, in a political view, confined to Florida? Was Texas of no consideration in this view? Let the situation of this province, at the back of Louisiana, and the direction of the flow of its principal rivers, be considered, and the important and delicate relation which it sustained to New Orleans, itself the most important position in our country, would immediately be perceived. Upon this view of the subject, interesting as it was, Mr. A. forbore, from obvious considerations, to enlarge. He would dismiss it, merely accompanied with a hint at the capacity of Texas to maintain a formidable population. Considered in a mere political aspect, then, the equivalent which we were to obtain for our territorial concession in the treaty, appeared to be little entitled to the preference which had been allotted to it, and the ratification of the treaty altogether unadvisable.

Mr. TRIMBLE, of Kentucky, said, that he had risen to support both of the resolutions offered by his colleague, the honorable SPEAKER. He saw in the documents strong indications of intention to accept the treaty, and, dissatisfied as he was, he owed it as a duty to himself, to the nation generally, and especially to that part of it residing on the Western waters, to enter his protest at large against the ratification. The treaty, in his opinion, was one of great interest to the nation; presenting various topics for discussion, most of which had been precluded from debate by the cautious prudence of his friend from South Carolina, (Mr. LOWNDES.) He knew that the rules of the House gave him a wide range, but he found himself unexpectedly restricted by the solicitude of the Chairman of the Committee of Foreign Relations. He was sure that solicitude was deeply felt, because it was strongly expressed, and being always ready to defer to his talents and discretion, he would cheerfully conform to his wishes. He had no right, he said, to complain of the course proposed; and he would do his friend the justice to say, that, if he did not advance with the boldness of Alexander, he displayed in retreat, all the skill of a Xenophon. He was in Parliament, what Moreau and Montecuccoli were in the field; he carried every thing with him; had left no spoil for his pursuers; no point exposed; no barriers undefended. The honor of the nation could not be placed in better hands, or safer keeping; and no one could defend its interests with superior ability.

The friends of the treaty, he said, had sought occasion to proclaim its merits; its opposers, until now, had not been heard. It was time the people should be heard; it was time for their Representatives to speak. The Western people have but one market for their produce—one emporium for their commerce; and the treaty leaves that one unprotected; leaves it fearfully exposed. He did not believe that the nation, if consulted, would ratify this treaty; he did not consider it a thing *in esse;* a contract in abeyance; it was, in his opinion, a mere nullity; and each party remitted back to his original rights and claims.

Our relations with Spain, he said, required the display of some energy, and for that reason he had prepared his mind to vote for reprisals; not because the treaty was obligatory, but because time and chance might change the present posture of affairs, and bring more trouble and more danger. To avoid that, and finish all at once, he would have acknowledged the patriots, and have occupied Texas and the Floridas. This would have brought the Castilian to terms, or made one war, and not a triple contest of it. Why strike for half the quarrel? If the army comes in as finisher of treaties, let us have all the land, and hold it as we did West Florida, subject to negotiation. He that takes justice in his own hands, should take the full measure of its claims.

Mr. T. did not intend to censure the officer who conducted the negotiations on our part; he would say that the ratification was pressed upon Spain with more zeal than judgment. She was made to suspect that the treaty was highly favorable to this country, because it was warmly urged; whereas, in fact, the advan-

tage was wholly on the side of Spain. It was clear, from the documents, that Mr. Adams was not able to barter land with Don Onis; he had confided too much in Castilian honor, as to the dates of the grants, and suffered the crafty Spaniard to deceive him. He had been circumvented. This was no discompliment. It was proof of fair-dealing on his part; and it was more honorable to be the victim than the agent, or the perpetrator of hypocrisy and fraud. He said he had nothing to say against the Executive in this matter; and hoped that no one would charge him with want of confidence in that Department. He would not allow the supposition to be made; his confidence in the President was unimpaired; and this, of all subjects, was the one upon which it was least likely to be diminished. He said he had not forgotten, it was impossible he should forget, that a proposition was made thirty years ago, in a secret session of Congress, to surrender the Western country to Spain for twenty-five years, and that its defeat was owing almost entirely to the resistance made by our present Chief Magistrate. The question then was—"our right to navigate the Mississippi;" the question now is, our right to the country, Louisiana proper, and the positions which protect and defend it. Eschewing war, and loving peace, the President has made sacrifices to maintain it; liberality is found in every clause of the treaty; forbearance in every page of the message. Texas was thrown in as a peace-offering to Spain; she refused it; and we are not bound, in justice or in honor, to offer it again. This nation will never consent that it shall be offered or conceded. The treaty has been sent to us by the President; the whole subject is before us; we are in Committee of the Whole on the state of the Union, and have a right to enter our protest and objections; and he for one was ready to perform his duty. He could see no danger in a broad discussion; but he would relieve the anxiety of his friend (Mr. LOWNDES) at once, by omitting all the topics which he wished to have excluded.

He said it would be recollected that the Louisiana Treaty amalgamated the inhabitants of that country with the people of the United States; that it gave them a common interest in the Union; an equal claim to its protection; a guarantee of "all the rights, advantages, and immunities, of citizens of the States." To use an Indian metaphor, the treaty of cession made us *all one man.* The fact was well known that some of the French inhabitants resided at that date, and still continue to reside, in that part of Texas then ceded to us, and now ceded to Spain. Some of our own people had removed there since the treaty of April 30, 1803; had purchased lands of Frenchmen, holding grants under the French Government, and stood upon the soil as *allodial freemen of the Union*, claiming its protection, and rendering it due homage and all fealty. Now, sir, said he, I assert roundly, I contend boldly, that there is no power in the constitution under which you can expatriate a citizen of the Union. I know that a treaty is the supreme law of the land; I admit that the treaty power is competent to settle questions of boundary and limits; but I deny the existence of any power by which you can alienate a citizen—denationalize a freeman. What, sir! sell land to a citizen; take his money; and then sell him, and land, and liberty, and all! It is too monstrous to be endured: it challenges resistance the moment it is seen. Citizenship is not an article of merchandise; it is not negotiable. Political rights in our Government are not subjects of barter and exchange; they could not be sold under hammer at political auction. Citizenship is indefeasible; inalienable: it is a patrimony descending to us from our ancestors, under entail, and we must leave it to posterity unbroken. Show me your power, said he, to cede citizens with sovereignty, like serfs and vassals of the soil. Show the power, or expunge the stipulation from the treaty. Strike it out; obliterate it; and leave the statute book untainted by the precedents. There are some hundreds of our citizens, by birth and adoption, expatriated by this treaty. The fact was surely unknown to the Secretary at that date. What reply could you make to a petition and remonstrance from these people? How would a committee report upon the case? A skilful diplomatist might boggle at the question. The stipulation would never be sanctioned by the nation; it required a statesman of courage to affirm the power; and to such he would leave the honor of defending it. He would never envy the laurels they might gather.

Mr. T. had objections to another article, an excrescence in the treaty, which called loudly for the knife and caustic. It grew out of the subject of claims and spoliations. The demands of our citizens are stated by some at ten millions of dollars; by others at twenty. Ten is below the minimum in aggregate. The eleventh article of the treaty exonerates Spain from these demands; gives a full renunciation; cancels the whole debt, and undertakes to make satisfaction to our citizens to an amount not exceeding five millions of dollars. Where, said he, does the treaty-making power find authority to expunge the claims of our citizens—extinguish their right to demand the full amount from Spain, and only pay them half the money? Barter their whole claims for soil and sovereignty; for sand and sea-weed—a barren sceptre—and pay them but one moiety! This is a new mode of levying taxes, of raising contributions; a letter of marque and reprisal on ourselves; a flat violation of the fifth article of the amendments to the constitution, which declares, that "private property shall not be taken for public purposes, without just compensation."

His great objection to the treaty, one which, in his opinion, was decisive, had not yet been

pressed or amplified. The argument had chiefly rested upon the treaty-making power, and the power of this House; and upon title and equivalents. His friend from Virginia (Mr. ARCHER) had debated the question of power, with an ability which did him honor. There, Mr. T. would let it rest. The view which he would take of the subject made it of little importance whether the first resolution should be affirmed or not. He would vote for the second, with the utmost freedom.

Title and equivalents apart, ought this nation to accept the limits settled by the treaty, and surrender Texas?

The boundary, in his opinion, was the main question. Most of the other stipulations were retroactive; had reference only to the interests of a few. But this is entirely prospective in its operation. It concerns every citizen of the Republic, and especially those of the West, whose barriers were about to be surrendered; the shield of whose commerce was about to be broken, and the emporium of their trade exposed to surreption and to plunder. It was of no consequence, he said, whether we had title or no title to the province in dispute. Not that he intended to yield our claim of title—far from it. He saw no room for doubt; the argument upon title was conclusive in our favor. That gave us the "vantage ground;" but he would waive it entirely, because he intended to sustain himself upon other facts and principles, and would endeavor to show that the surrender of Texas would be in every respect improvident and dangerous.

This, he said, was a Treaty of Limits. The Father of the Universe, in his peculier providence, had given natural boundaries to every continent and kingdom—permanent, physical, imperishable barriers to every nation, to shield it from invasion. Man, in his mad career of glory, his thirst for dominion, had rejected as useless the great and permanent boundaries of nature, and sought out ideal, perishable limits of his own creation. Look at the great profile of every continent, and you find them partitioned by the hand of Providence into portions and allotments convenient for the purposes of social happiness; and those allotments are everywhere protected by barriers and defences. Spain herself is an instance. She is bounded by two seas and one mountain—the Atlantic and Mediterranean, and the Pyrenees. Hundreds of wars have arisen upon questions of ideal boundary, and millions of human beings have been slaughtered to beat back ambitious nations into their natural limits. Compacts and paper boundaries are men of straw in the hands of domination. It is physical barriers alone that check encroachment, and give repose to feeble nations. In Europe, questions of boundary are settled by the law of accident, of conquest, of necessity, of weakness—by the law called "the balance of power." Density of population, conflicting interest, and long-established usages, preclude all hope of voluntary change. Ours, on the contrary, is a new world, sparsely settled, (partly peopled,) inhabited by nations in a state of pupilage. We alone have risen from minority to manhood. We have fought one war for independence; another for "free trade and sailors' rights;" and another must be fought for barriers and boundaries, if you ratify this treaty. We are acting on a new theatre, under new auspices, and new principles.

What ought to be the confines of our Union? That was the great question confided to our Minister. No public functionary ever held a higher trust, or filled an office more responsible—the sacred trust of giving limits to the only free nation in existence. Called as he was to that high trust; holding as he did in his hands the destiny of millions; animated, as he surely was, by all the motives that could stimulate his love of country, he should have spurned the higgling policy of Kings, the truck and traffic of European despots, and their ambidextrous Ministers, and, mounting upwards to first principles, demanded at once our natural limits, the barriers of our country, and yielded with equal promptitude all claims beyond them. Nations are individuals in relation to each other; and, as self-defence is the first law of man, so is national defence the first law of society. The boundaries of States and Kingdoms should be settled with reference to their military defence and maritime protection. Every nation should possess the military positions which defend its frontier, and the keys which protect the emporiums of its commerce. These barriers are hostages for the peace of nations; and no people can neglect them with impunity, or surrender them with safety. It is by acquiring these, in times of peace, that preparation is best made for war. These, said Mr. T., are maxims established by experience and sanctioned by all history. Are they found in this treaty? Do they sanction its stipulations, or had they been forgotten in the lapse of diplomacy? he was mistaken if they were not. He would conjure gentlemen not to mislead themselves with doubts about the title. We were purchasing territory, and fixing limits. Title was nothing. Boundary and barriers were every thing. There lies the pith and marrow of the subject.

1st. Where are the natural limits and barriers of the Republic?

2d. Was it in our power to obtain a cession for those limits?

3d. Were they necessary or desirable for military purposes—for protection and defence?

4th. Were they wanted as safeguards to our commerce and commercial depots?

5th. If we transfer our claim, be it bad or good, shadow or substance, may not some hostile power, some jealous adversary, occupy the province, and use it to assail New Orleans, and destroy our Western commerce, or load it with exactions?

These were inquiries of first magnitude, and claim our cool deliberation. The Rio del Norte, the Puerco, and the Apachee Mountains, and

Sierra Obscura, (dark mountains,) are our national limits, on that side of the confederacy. Examine, if you please, a map of our country; compare it with that of other nations. Like France, we are bounded by two seas and two mountains—the Atlantic and the lakes on those sides, and by the mountains West and South. The Rio del Norte is to us what the Rhine is to France, and Texas is our low country—our Netherlands. Spain authorized her Minister to cede all as far as the Rio del Norte; wherefore shall we surrender all beyond the Sabine? The Minister had full powers, and his secret instructions permitted him to cede much farther than he did—rumor says, a large portion of New Spain; meaning "Louisiana, as it should be," to the Rio del Norte. Why did we yield? Why not adhere to every acre? The Spaniard had fears, and our interests were set off against his fears—our barriers and defences, to save his head. The commercial interests of eight States, two Territories, parts of two States, and all the transmontane regions surrendered, now and forever, to save a Spaniard from potential danger.

New Orleans, he said, was the only entrepot for the commerce of the Mississippi and its waters. No city, of ancient or modern times, possessed the same advantages; certainly none of ours had equal prospects for the future. It was destined to become the great emporium of the new world. It was the heel of Achilles—our vulnerable point. Florida, Texas, and Cuba, are the great military and naval positions which defend the city and its commerce or threaten it with invasion. It is particularly exposed to combined operations—to simultaneous attacks by land and water. Let it be taken, and the tree is belted; the country above it will deaden and decay. We have no other market. Our produce will perish in our hands. Expose New Orleans, and you expose our interests in the same proportion. A place of such importance should be guarded by positions which bid defiance to assault. The three positions he had named belong properly to our continent. Cuba, said he, we shall never get; and the treaty offers to surrender Texas, leaving us Florida, the weakest of the three, to defend the city. He would say the weakest, because he should hazard nothing in affirming that Orleans is most vulnerable on its right flank—on the side of Texas; and always would be so, until that province is settled by our people. From Florida and Cuba the line of attack upon New Orleans is by water; the land route from East Florida being impracticable for any army of invasion. The enemy would have to debark itself in the face of defensive armies, an operation never desirable, and almost always dangerous. But the base of a campaign against Orleans, laid in Texas, and aided by the fine horses of that country, and the facilities of descent by the Red River and Mississippi, would insure success; and even if defeated, the men and means of that defeat would cost this country more than twice the sum which would at this day purchase the whole province. This line of attack unites all the advantages of land and water movements. A fleet could actively operate upon the Gulf, and furnish the invading army with supplies, by the rivers and bayous of the country. All this was so clear to him, so palpable, that he marvelled greatly at those who could not see it. He would ask, if New Orleans had nothing to fear from a transfer of Texas to England? Nothing from a coalition between England and New Spain? Nothing from the ambition of a Creolian Emperor of Mexico, possessing the very sinews of war, the mines and precious metals, and stimulated by the love of domination?

England, he said, had fought us two wars, and committed the same errors in each. It was not for him to expose her blunders; experience would not be lost upon her; she could feel for a soft place as well as other nations. It is said she urges Spain to ratify the treaty; and it is also said that she holds a secret treaty of cession for the island of Cuba; that has been denied. Perhaps it is only a cession of Texas, in part remuneration for subsidies furnished during the war in the Peninsula against Napoleon and King Joseph. Next to Cuba it is the most important acquisition she could make upon our borders; especially if she intends to fight us another war. She would then hold the barriers of our country on each flank on the North and South; and while we besiege Quebec she would plunder Orleans. If she demands the province, can Ferdinand refuse? Where was he, and what his condition, in February last? At Madrid, surrounded by discord and confusion; his coffers empty; his subjects mutinous; and his army in rebellion. Where is he now? Perhaps winging his aërial flight after his cousin the Duke of Berri; perhaps an exile from his native land, living upon the bounty of the allies; perhaps a fugitive, houseless and friendless in his own dominions; perhaps a tenant in his own dungeons, the companion of State criminals, the victims of his mad policy.

Mr. T. rejoiced that he was a son of the new world; a citizen of a free government; a companion of freemen. Had his lot been cast elsewhere, Ireland of choice should have been his birthplace, the land of hospitality and heroes, of patriots and martyrs; and, next to Ireland, France. The French, said he, are a brave and generous people; heroic, magnanimous, and lofty; their renown in arms will be remembered, when the dynasties of the Bourbons and Napoleons are forgotten. They deserved to enjoy a bright day of liberty, of which they saw only the twilight. The holy alliance may persuade Louis XVIII. to abolish the law of elections, the freedom of the press, and the trial by jury, and to revive the *lettres de cachet;* but the king should beware. The spirit of freedom in France is unbroken—it only sleeps—the ultras will ruin him. Even now his power totters to its base. But, as to his cousin Ferdinand, he dare not send him subsidies. He dare not march an

army into Spain. Frenchmen may fight to build up a constitution, they will not fight to put one down. What can Ferdinand do? Where can he turn for succor? What are his means to purchase it? His colonies are torn away by revolution, never to rennite. He has nothing left but Cuba, and Porto Rico, and Texas. New Spain is nothing, because Apodaca will be Emperor of Mexico, whenever time and chance will favor him. Cuba is the brightest gem upon the Crown; that comes to the hammer last. What has he left but Texas, which is available to purchase subsidies? Like other bankrupts, he must surrender his effects, and England must take Texas for a shilling in the pound. The purchase would give her commercial advantages and military strength. Would she value it for military purposes? He could state a fact which would serve him as an argument. No one, he said, had forgotten the affair of the Chesapeake; on that occasion the war-whoop resounded through all parts of the Union; England heard it, and began to prepare for probable events.

He said, he had no intention to deceive himself or to mislead others. He had no complaint to make against the Cabinet for having assented to the treaty. He was sure the President intended to do every thing he could in favor of that section of the Union, consistent with his general duties to the nation, and that it would give him peculiar pleasure to put the finishing touch to the great Mississippi question, in the management of which he had been so conspicuous from its origin to this day, and for which distinguished services he deserved all the applause which the nation had awarded him. Mr. T. knew well enough that members residing at different parts of the Union might have different views of the subject. It was his settled opinion that Texas was worth more than Florida, and he would express his sentiments with the frankness of a freeman. It was worth more for agricultural purposes; for military defence; for maritime protection; for a hostage of peace between us and Mexico. As a colony of England, we should find it a whip of scorpions. With it we surrender the control of the Comanches, the Lepans, the Tetans, and various tribes of Indians who inhabit its plains and mountains; the most powerful and warlike Indians on the continent—numbering from ten to twenty-five thousand warriors, of great muscular strength and vigorous constitutions—mounted upon the finest horses in our country—the Andalusian blood crossed with Arabian. These wild men are the unconquered descendants of Montezuma, inhabiting the Switzerland of New Spain; a determined, vigilant, and crafty race—fruitful in stratagem, skilful in arms and horsemanship, and fierce in battle. They are the Cossacks of America; the Spartans of modern times. Let no man despise the children of the *Sun!*

What if England should get the province, subsidize the natives, and establish a line of posts along our Southern border? Is experience lost upon us? Have we forgotten the rude lessons of last war? Here we are, contesting the point of honor about the Missouri expedition; listening to wise counsellors, who teach us the value of Northwestern posts; of holding checks upon the Indians in that quarter, and counterchecks upon the influence of British traders, and at the same time advise us to surrender Texas; a country of rich soil and mild climate, about one hundred leagues wide, and extending more than seven hundred miles along our Southern frontier; exposing us, thoughtlessly and carelessly, to the vexations and dangers of Indian warfare on that border, but carefully and promptly creating counterguards elsewhere. Here we protect you against the ruthless savage; there we expose you to his tender mercies. The contrast struck him with amazement. France had a cordon of posts around us while we were colonies; she had forts from Quebec up the Lakes, and down the Ohio and Mississippi to New Orleans. The effect was not forgotten. In the war of '56, she brought the Indians upon our frontier from Lake George to the swamps of Florida. The blood of our people was shed in copious streams; thousands of lives were sacrificed, and millions of money spent in repelling the barbarous invaders. England pursued the same policy during the Revolution, and again the savages laid waste our frontier from the Mohawk to the Oconee and St. Mary's, in Georgia.

We had barely recovered from this blow, when the Mississippi question struck us with consternation and dismay. He alluded, he said, to the famous proposition to surrender the transmontane country to Spain. We shall find it upon the secret journal; the gentleman from South Carolina (Mr. PINCKNEY) had told us so from his place in this House, and he was a member of that Congress. We of the West were to have been pruned off from the Tree of Liberty; our soil rented to a foreign despot; leased for a term of years; ourselves threatened with the insolence of Spanish power, and the horrors of Spanish tyranny. Who would have been our Viceroy or Captain General? One of our own countrymen? No, sir, a foreigner, some royal parasite; a myrmidon of power; a bloody and merciless Morillo, with the inquisition at his heels, to crush the spirit of independence or drive us from the country; our hardy, fearless woodsmen, after surmounting the perils of migration, and subduing the Spartans of the forest, must have bowed, silent and sullen, to the yoke of Spain, or paid the forfeit of resistance in lingering torments to glut the vengeance of unholy altars; and our heroic, enterprising females, after breasting the tomahawk, and scalping-knife of savage war, would have been spared, only to witness the horror-breasting scenes exhibited not long since in Valencia; the blood of maiden innocence gushing from its naked limbs, and dripping from the torture and the rack. That thunderbolt went by; and now another comes. Our barriers are surrendered —bartered away. The equivalent is nothing;

barriers have no equivalents; they are above its standard; they are the gift of God to nations; the shield and buckler of defence; the guards and counterchecks against invasion. The great Engineer of the Universe has fixed the natural limits of our country, and man cannot change them; that at least is above the treaty-making power. To that boundary we shall go; "peaceably if we can, forcibly if we must;" beyond it, all to us is worthless; we would not have it as a gift; not if Spain would give a dowry with it: that would lay the foundation of perpetual collisions; the other would exclude them so far as human wisdom can avert the danger. Boundaries fix the destiny of nations for *peace* or *war*. The primary law of all communities is self-defence, protection from assault, shelter from invasion, safeguards for commerce, and commercial depots. They who surrender barriers, betray themselves; it is high treason against posterity; the evil ends not with time present; it operates in perpetuity. Why sell the birthright of our country? Our ancestors left us a goodly heritage; let us preserve it unimpaired; we are responsible for the estate, and its abutments and defences; not to those who have passed away, and sleep with their fathers; no, sir, to ourselves; to this nation, the only free one on the globe; to a long line of succeeding generations; to the cause of freedom and humanity itself. Will you hazard a failure of this great political experiment, "in the full tide of its success?" Will you jeopardize the integrity of the nation by surrendering its safeguards, and thereby inviting foreign powers to seize our emporiums, and smite us with disunion?

Mr. ANDERSON, of Kentucky, said that he regretted very much to see the course in which the gentlemen who had preceded him had thought proper to indulge themselves. A course which went in every way to depreciate Florida, and to give to Texas such exaggerated advantages as he believed no country ever possessed. He had never heard until lately that the acquisition of Florida was not eminently desirable to this country; not only on account of its positive advantages, but for the purpose of excluding from all ownership any foreign power, whose neighborhood would always be unfriendly, and particularly for preventing its occupation by a power which had a strong naval force. The complete natural boundary which its possession would give us, its fine ports, the command of the Gulf, (an advantage always in the recollection of those whose productions passed to market through the channel of the Mississippi,) had formed the reasons which induced the American people to desire it. Without having any particular information on the subject, which was not common to every gentleman, Mr. A. said that he had yielded to those reasons which seemed so obvious, and had partaken of the general anxiety. Public sentiment had decided on the importance of the acquisition, and the Executive department of the government has been stimulated by a knowledge of the universal wish that Florida should belong to us. It may be safely affirmed that for many years the people have never looked to a settlement of our differences with Spain, without combining with that adjustment the acquisition of Florida. So strongly had it seized on the public mind, that the original cause of our negotiation with Spain had become only an incident in public sentiment. This general anxiety was connected, too, with a belief that its purchase was essential to the complete suppression of the Indian hostilities, which had so long vexed our Southern citizens.

During the long and tedious negotiations which preceded the treaty of February, 1819, this general belief had been cherished and augmented. Nothing was said or published to divert the public attention, nor to show the people or the Government that they attached to the country an improper value. But it is now becoming the fashionable opinion that if the treaty is ratified, we shall have acquired nothing valuable; that Florida is a sand-bank; that it is, at any rate, what we can do very well without at present. All the value which we have heretofore attached to that country is now transferred to Texas; the climate of Texas, its soil, its relation to the Gulf, its fine port, its high maritime importance, have been spoken of in language of the highest praise. Mr. A. said that much of this may be true; the map showed to him the climate, and he had heard that there was much fine land. But the nature and accuracy of the information of the gentlemen, he presumed, depended upon authority very much like his own; he had seen very few people who had ever been there. And as it regarded the naval importance of the country and the fine port spoken of, he would observe that he considered the statements of the gentleman wholly wrong. The general opinion, founded on the uncontradicted statements of our naval officers and others, was, that there is no port on the whole coast; and he could say that he had never heard of it, until it was mentioned yesterday by his friend, the SPEAKER. It had been frequently mentioned as a peculiarity and a commercial misfortune attending the coast of the Gulf, for a very great distance to the southward of the mouth of the Mississippi, that there was not even a tolerable harbor.

Mr. A. said he thought it peculiarly unfortunate that gentlemen should, under existing circumstances, when the acquisition had been made so far as the authorities of our Government extended, depreciate that which we had gotten, and for the payment of which our constituents might soon be called on to contribute, and should endeavor to enhance the value of that country which the same authorities had determined did not belong to us. He thought such a course might have a very unhappy effect on the public mind; and he deprecated very much every thing which would now tend to produce dissatisfaction towards a treaty

which we had ourselves promoted and ratified.

On the subject of our power to interfere, in the way proposed, Mr. A. said he had no difficulty. He believed that it was competent to the House of Representatives, on any occasion in which they might constitutionally interfere, to bring to punishment the betrayers of the public trust, or which they might be ultimately called on to aid by an appropriation of money, to anticipate the case, and to avert the evil, which they foresaw was about to fall on the country. He believed that this House, on every great occasion, might so far imbody and give expression to public sentiment, as to declare by resolution its opinion, for the purpose of averting a great national calamity which the treaty-making power or any other department was about to bring on the country. A right ultimately to prosecute the offenders seemed itself to give a power to avert the offence, by forewarning the agents. But, while he had no doubt of the right of the House to act in this case, in which, if the treaty were made, they would be called on to make the appropriations to fulfil it, he strennously contended that no case had been made out to justify our interference. The utmost ingenuity of gentlemen had been exerted to ascertain whether the treaty were a good or a bad one. Where differences of opinion might exist as to its policy, it was essential that the treaty-making power should be uncontrolled; that the department which had the power to act should act on its own responsibility; that the exercise of this power should in no way be controlled, nor its responsibility shared by us. With these sentiments, he could have wished that the resolutions had not been introduced. If they had tended towards another purpose, to which an allusion had been made in the course of the debate, they should have had his cordial support. He would most cordially co-operate in any public measures which should go to establish between this country and the independent Governments of South America those relations which he believed the feelings of our citizens and the just claims of those Governments required—relations which he believed would soon exist with the approbation of every one.

There is another consideration which should make this House cautious in adopting the resolutions before us—cautious in abandoning the high ground we have obtained by our forbearance and magnanimity. The course of this protracted negotiation has gained to us much honor in the eyes of the world. Although we have failed as yet in getting a recompense for the wrongs done to us, we have acquired a character which was worth much more. We have shown to the world that we sought justice, not aggrandizement; we have shown that we could abstain from war, even when our adversary had given to us the amplest justification. We have defeated the malicious predictions of the politicians of Europe, who declared that we only sought an apology for seizing on Florida. The present state of the negotiation has just brought those Courts to the acknowledgment (a proud one for us) that we sought only peace and a fair settlement.

But, if we pass these resolutions, we suddenly relinquish this high ground, and assume the station of our adversary. For fourteen years we have been urgent, Spain reluctant; we have pressed, Spain has receded; but now, when there is an indication of peace, we suddenly change sides—Spain presses, and we recede. We thereby defeat all our declarations of anxiety for peace; we charge as unequal the terms which for several months have been regarded as the terms of peace, and which have been sanctioned by all the authorities of the Government. This course would present the American Government in a point of view wholly different from the one in which her conduct throughout the negotiation had placed her. It would manifest a variableness of public counsel—an instability of decision—in no way calculated to maintain our character among foreign nations, or among our own citizens. Such a political fickleness would create at home and abroad a distrust of the permanence of all our public measures. It must be borne in mind, too, that this House has approved the treaty in the most solemn manner in which it can act—by the passage of a law. A bill was introduced and passed for the purpose of executing the treaty, in all those parts which were susceptible of immediate execution, and for establishing a provisional government in Florida. It has been said that this bill passed without discussion. This was true, only because there was no objection or dissent. The forms of our Government do not admit any further ratification than this treaty has received. It received the approbation of that department to which such duties are, in the first instance, assigned. The House of Representatives then originated and the Congress passed a law for carrying it into effect. He did not contend, for a moment, that the treaty was now binding on us—the King of Spain having failed to ratify it within the time prescribed. But, Mr. A. said, he could not consent so soon to contradict the formal declarations which we have made to the world, and now declare to our own citizens that we have ratified a treaty which was not only unequal, but unconstitutional. He would leave to the President and Senate the further negotiation of the subject; and, whether any recent circumstances had occurred, which would induce them to reject those terms of settlement to which they had lately assented, he would submit to them, and let rest on their responsibility the duty of making such an adjustment as our rights demanded.

Mr. A. saw nothing in the whole course of this transaction which called on us for our interference. He did not think that the circumstance of the President and Senate having made one treaty, which we did approve, gave any

evidence that they would now make one which we did not.

He would now proceed to consider the resolution presented by the SPEAKER, in reference to its application, without attending closely to the phraseology. In its operation, it contained a denial of the right of the treaty-making power to declare the Sabine River as the western limit of Louisiana. Although, in form, the first member of the resolution purported to be a declaration that the President and Senate could not cede any of the territory of the United States, still its meaning is so far explained by the second resolution and the speech of the SPEAKER, that it was fair to consider it in its operation, and not in its abstract form. This view of the subject would save him from a most laborious discussion, which an examination of the question of ceding territory belonging to the United States would involve. Whether the power to acquire territory does include a power to cede? Whether territory be as much under the regulation of treaties as other property? Whether there be any limitation of the treaty-making power, in relation to territory, produced by any special exception in the constitution; and, indeed, what are the limitations to this power? are, singly, questions of great magnitude; some of which will probably produce much unpleasant contention before they are finally settled. He was, however, happy to think that the present case required no such discussion. It was sufficient for him to show that the treaty, as concluded, was within the powers of the department which made it, without indulging in any speculations on the construction of the constitution on other controverted points. His single aim, then, was to show that the President and Senate might safely declare, in a treaty of limits, that the disputed province of Texas was not included within the possessions of the United States, without at all assuming the power to cede any of the public territory.

To present the proposition, with distinctness, to the committee, it may be stated that there are three situations, in one of which the province of Texas must be placed:

1st. It may belong to Spain certainly;

2d. Or to us;

3d. Or it may be disputed territory.

In the first-mentioned state of the case, there could be no difficulty; there could be none in recognizing that which previously existed. That supposition, then, will be no farther pursued. The second case, then, produces the difficulty, and is the only one on which the resolutions can be maintained. There is no pretence for sustaining the resolutions until it is first shown that Texas belongs to us; but no attempt has been made to prove it. The very ground on which the demand of gentlemen for our votes must be supported has not been touched. The debate has assumed, as a fact, that which the Spaniards have never conceded, and which, in fourteen years of negotiation, we have never been able to determine. It has assumed, as a fact, that which we may all believe, but which inasmuch as there is no standard between nations to measure the respective rights of each, must be uncertain, so long as both parties assert their claims. Probably no American has ever read the long discussions on this subject, which have been conducted by the secretaries of the two countries, without an ardent wish to find proofs to sustain the claims of his country to the farthest boundaries contended for; and very few of us have ever read without finding that for which we all looked. But these reasons are of no avail, so long as there is no common tribunal to enforce them. Mr. A. said, then, that he should not go into the ultimate question of the right, which he considered utterly uselcss to him who held the negative of the proposition before the House, but should attempt to show that the country referred to was in the third class; or was disputed territory. And there is certainly nothing which falls more aptly within the power to form treaties than the settlement of the limits of disputed or undefined territory.

The history of the transaction shows, that the ownership of this province has never ceased to be a question. That there never has been a moment of time, since the original purchase of Louisiana, at which our claims were admitted by the other contracting party. There are three facts, which alone must assign this country to that class in which he had placed it.

Spain has never agreed that it belonged to us.

We have never had possession.

The President of the United States approved the arrangements made by the American officers with the Spanish commandant, in 1806, by which the Spaniard was to retire with his forces beyond the Sabine; and neither party was to molest the other on their respective banks. This arrangement was made by the military officer for a temporary purpose, but was acquiesced in by Mr. Jefferson, as appears by his Message at the succeeding session, has never been violated, and has, to every purpose, been heretofore the western limit of our purchase. It would be difficult to devise any circumstances which would more certainly affix on this country the character of a "disputed territory;" there is no trait of such a character absent. After volumes have been written by the agents of the Governments, to maintain their respective rights, it would now indeed be extraordinary to declare that its ownership was not a subject of negotiation; for, if the final settlement is not within the power of the department which has acted on it, the previous negotiation has been idle.

We hold the deed of cession, which we declare, grants the country to us; while Spain holds the country and denies that the deed embraces it. When it is remembered, that between nations there is no common arbiter by which the rights of each can be ascertained,

our claims will, in the eyes of the world, be considered equal, unless, indeed, the possession of our adversary should create in his behalf a presumption against us. Our own convictions that the country is within Louisiana can have no effect; as there is no test by which it can be demonstrated. An American statesman may rise and declare, that "Texas belongs to us; I know it; I can prove it;" but it is a vain declaration;—of what avail can it be, when the Spaniard, standing on the land, says "it is mine; I hold it, and there is no judge between us?" It is a matter not susceptible of demonstration; and there is no tribunal to which either is bound to submit. The result certainly is, that the western limit of Louisiana has ever been so uncertain, that its adjustment is clearly within the power which has acted on it. It seems to have been admitted, that, where the extent of a purchase of territory was undefined, the President and Senate could, by treaty, define its boundaries. Nothing can be more plain, than that the same power which can acquire territory, can define the extent of the acquisition; or, in other words, declare how much it did purchase.

There is nothing which can, under the distribution of powers in our constitution, be more certainly assigned to the President and Senate, than the settlement of disputed boundaries. Probably there is no single subject on which so many treaties have been made. None which is more peculiarly the attribute of the department to which belongs the peace-making power. From the very great extent of our territory, and the undefined state of its limits, on several sides, this power must be frequently called into exercise. Its frequent operation on the settlement of differences of this kind, must have been contemplated by the convention; and it could never have been intended, that, in a general grant of the power, it should be construed not to apply to cases which had been invariably, in all countries, the subjects of its operation. In the short course of our history, treaties have been made, in which boundaries theretofore uncertain, have been fixed; and territory before uncertain as to its ownership, has been declared to belong to us, or, to the other contracting party, as it should fall on the one or the other side of the designated line.

The language of the treaty has been referred to, for the purpose of showing that a cession of territory was in the contemplation of the negotiators. Mr. A. said that he considered the treaty as he should consider any other written instrument, by its legal operation. He thought that the word "cede" was improperly used; but it was an impropriety only in phrase. The intention of the clause was, clearly, a designation of boundary only. If the result was within the constitutional powers of the President and Senate, it would be unnecessary cavilling to censure the language in which the exercise of that power was expressed.

But do gentlemen see with clearness the consequence to which a doctrine would lead, which should deny to the President and Senate the power of determining by treaty, that Texas or any other controverted territory, to which we had a claim, but never had possession, did not belong to us? What tribunal would they propose, to settle the controversy? If they reject the one which we propose, there is no other test but the sword. The result would be, that, in every case of disputed lines, unless our neighbor would unconditionally relinquish to the full extent of our claims, our pretensions must be asserted by war; and that war could not be abandoned, however disastrous it might be, until we had completely succeeded. No treaty could be sooner made, because it would cede a part of our territory. And in the case of Texas, how long should we fight for it? Until the House of Representatives shall be of opinion that it does not belong to us? The very moment in which you take from the Senate the power of determining the right to the property, you are on the ocean without a pilot. The opinion of each individual in the community is entitled to equal weight in this consideration. To the man who thinks that the country is ours, a treaty involving a relinquishment of it will be unconstitutional, while to him who is of a different opinion, it will be valid and without objection. The mischiefs of that construction, which must be to substitute the sword for the Senate, could not be obviated by the arbitration of any foreign or disinterested power. This would be entirely inadmissible, as the President and Senate could not refer to others a decision on a point, which they themselves had no authority to decide.

Mr. A. said he wished it understood, that he applied his arguments only to a country situated like Texas; a country which was really in dispute, one to which we had a claim, but which we had never possessed.

THURSDAY, April 6.

Mausoleum to General Washington.

Mr. ERVIN, of South Carolina, submitted the following resolutions:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of said States be requested to take measures to obtain from the honorable Bushrod Washington the body of the late General George Washington; and, if obtained, that he cause to be erected over it, in the Capitol square, east of the Capitol, a suitable mausoleum, with inscriptions emblematical of the principal events of his military and political life.

Resolved, That the President of the United States be authorized to give the sum of —— dollars for the best plan of a mausoleum; which plan of a mausoleum, and the inscriptions thereon, shall be approved by the President of the United States, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice, the Secretaries of the different Departments, and the Attorney-General, or a majority of them.

Be it further resolved, That the President do cause to be procured an equestrian statue of bronze of General George Washington, to be executed by some eminent artist, which shall be placed on the top of the said mausoleum, in the centre building of the Capitol, or in any other place within the public square, which, by a majority of the persons in the preceding resolution referred to, shall be deemed most suitable.

And be it further enacted, That a committee be appointed to bring in a bill to make the necessary appropriations of money to carry into execution the objects contemplated in the preceding resolutions.

Mr. ERVIN addressed the Chair as follows:

Mr. Speaker, I consider it among the fortunate incidents of my life that I have the honor of a seat in the great council of my country, and enjoy an opportunity to vote for a statue and monument to General George Washington, late President of the United States; not, sir, in the hope to confer honor, or to perpetuate the fame of this great man, but to join in manifesting to the world and the latest posterity, our admiration and gratitude for his eminent virtues and most distinguished services.

It is not my intention; nay, it is unnecessary to repeat any considerable portion of his history to this enlightened assembly—it lives in our memories, it dwells upon our tongues: or his virtues, for they are embalmed in the bosom of our affections. To their narration I can impart no new ornament; for, in their praise, eloquence has poured forth all her eulogiums, and even panegyric itself has been exhausted.

Nor is it, sir, for the purpose of mere idle declamation that I hope to claim the attention of this honorable body to the resolutions which I have done myself the honor to present. Considerations more momentous have influenced me. The storm has not yet wholly subsided which lately threatened, not only the peace and tranquillity, but the union of these States. To the motives of common security and common interest which have so happily and gloriously united us, I wish, if possible, to add those of sentiment and kindred sympathy; and I know of nothing more calculated to beget the one or awaken the other, than to entomb the father of our country in a mausoleum, with inscriptions emblematical of the great events of his political and military life, erected at the national expense.

Cold, indeed, will be that heart which could ever approach it, without experiencing mingled emotions of veneration and respect. The wise, good, and oppressed from every clime, will come and survey, with wonder and delight, the gratitude of the American people to him "who was first in war, first in peace, and first in the hearts of his countrymen."

At its pedestal the ambitious will learn the vast difference between promoting the glory and happiness of millions of freemen, and that of mere personal aggrandizement. Whilst statues, monuments, and the applause of unborn millions, will be the soul-ennobling reward of virtuous ambition in the one case, they will behold the other sitting upon the ruins of Carthage, more emblematical of fallen greatness than the very ruins which surrounded it. They will follow it in its flight from the bloody plains of Pharsalia, and behold it naked, lifeless, friendless, and inurned on Egypt's sultry shore; they will see it for a few splendid years awing the world—then behold it stript of imperial power and splendor, cut off from all the endearing sympathies of our nature, our consolation in misfortune, and exiled to a rock in the great Pacific ocean.

Here, sir, when we who are now guiding the destinies of our country will be silent in the dust, our children from the North and the South, from the East and the West, will meet in mournful silence; the great events of the Revolution will pass in solemn review before them; the disasters of defeat, and the triumphs of victory. They will behold the man whose cause I now advocate, guiding the storm and directing the energies of an injured people, determined to be free. They will remember the joint exertions, the kindred blood which flowed to purchase our freedom, and will kneel around it, and with full hearts swear to transmit the rich inheritance unimpaired to their latest posterity.

All the enlightened nations of antiquity considered it a duty not only to commemorate the virtuous deeds, but to perpetuate to their posterity the very form and appearance of their illustrious dead. To this end all their literature and arts were equally subservient. On the one hand, whilst history recorded, and eloquence rendered immortal, their virtues and warlike achievements; on the other hand, the marble, decorated with the ornaments of drapery, seemed to breathe under the chisel of the artist, and an artificial form on canvas was almost pencilled into life—dividing empire with the grave, and handing down to posterity the venerable image of the benefactors of their country. Hence the incentive to great actions; hence that undaunted courage which made them superior to the dangers of the field; and hence that noble emulation which stimulated them to aspire after generous fame and everlasting renown, when they knew, and acted under the influence of that knowledge, that they would survive the decay of nature, and be seen and venerated in other times.

Do we fear the amount of the expenditure? Quadruple the sum expended whilst debating the Missouri question, will cover the amount necessary. But, admitting it should be more, will my country promise, and promise, and never perform? On the 17th of August, 1783, in the moment of triumph, when the services of WASHINGTON called forth universal expressions of grateful feeling, the Continental Congress unanimously voted him an equestrian bronze statue; but, notwithstanding his virtues and great achievements, he had the mortification to outlive the gratitude of his country, for it has never been procured.

In 1799, after having done all the good in his

power, and he was summoned to join the general congress of virtue above, remember the pledge that was given to this mighty people, who were then in tears. Your chair, sir, was shrouded in black; the then Congress, in a body, waited on the President of the United States, in condolence for the national loss. They requested of his illustrious, disconsolate consort, the body of the Father of our Country, which was assented to; and in May of the subsequent year a bill was introduced into this House to erect over it a mausoleum. And what, let me ask, has been done? Other revolutionary claims have been adjusted; but this great national debt of gratitude yet remains to be paid. The eyes of the world are upon us. The affection of the American people demands it; and will you not gratify them? Will you justify the imputation of the charge of ingratitude, which history informs us is the vice of Republics? Will you, in moments of joy or sorrow, when the soul is animated or melted with the noble, generous feelings of the heart, decree statues and monuments, and, when those feelings have subsided, suffer yourselves to be governed by motives of a character less meritorious?

If you should be thus unfortunately influenced, authorize a national subscription, proclaim to the patriotism of the American people, that money is wanting to procure a statue and erect a monument to WASHINGTON: Riches would pour forth her treasures, and the poor Revolutionary soldier, whose heart has been often cheered with his voice, whilst fighting the battles of his country, will perform his last pilgrimage, and give all he has to give, his tears.

But, sir, I know I may be told, that apprehensions are entertained for fear of the danger of the precedent: that others less meritorious may wish the like distinction. My regret is, sir, that the annals of mankind have not as yet, and I much fear will never produce such another subject of commemoration. But if, in the course of human events, our country should be invaded, and liberty driven to her last intrenchments, some mighty genius should arise, whose victorious arm should beat back the invading foe—sweep them off with the besom of destruction, and redeem the sinking destinies of my country, I would commemorate his exploits by every expression of national gratitude, and erect to his memory a monument more durable than the pyramids of the Nile. All these glorious exploits, and more, have been performed by this illustrious man; and if ever man deserved the distinguished evidence of a nation's love, it is WASHINGTON. So eminent have been his services, that he has been, and will be throughout every age, the theme of universal panegyric.

The liberties of other countries have been acquired by the united exertions of numbers; but whilst I justly admire and duly appreciate the talents, the firmness, and integrity of other illustrious patriots of the Revolution, I appeal to history to say, whether the liberty of this country was not acquired as much by his skill and prudence, as by the force of numbers. At the commencement and during the Revolutionary war, remember the difficulties he had to encounter; at the head of militiamen, undisciplined, and without any motives for union but those of common danger, he dared to oppose a power whose veterans had recently conquered in every clime, and whose flag waved in proud triumph round the world. Hannibal like, he soon converted the licentiousness of freemen into the orderly discipline of the soldier, and by superior military skill, drove his arrogant confident foe from his encampment in Boston. On the 15th of November, 1776, two thousand seven hundred of his soldiers were captured at Fort Washington. The 1st of December of the same year, their term of service having expired, twelve thousand more claimed their discharge, and left him with less than three thousand effective men; with this remnant, in the dead of winter, and in the face of a vastly superior force, he kept the field, and convinced his foe that although his physical numbers were diminished, his moral force was the same, and that he might destroy, but could never conquer freemen.

At this awful moment, the stoutest hearts were appalled; not only the poor and humble, but the rich and influential, gave up all as lost, and numbers claimed the protection of a powerful enemy. Yes, sir, he was forsaken, and when counselled to make his own peace, he indignantly repelled the advice, and declared that he would carry the war into the upper part of his native State, and if driven from thence, he would raise the standard of liberty beyond the mountains. Oh! my country, he was our father—he was our friend. In the most gloomy moments of our Revolution, when all our prospects were darkened—when hope herself was sinking in despair, his great mind never faltered. No matter what disaster befell you, no matter what misfortune awaited you, he was faithful: he rose superior to the one, and prepared with manly fortitude to encounter the other; and after enduring trials the most afflicting, and encountering dangers the most appalling, he succeeded in establishing the liberties of his country, by triumphing over the hero who was nursed in arms on the plains where Wolfe, Montcalm, and Montgomery fell.

At the close of the American Revolution, he exhibited to the world a spectacle to which history furnishes no parallel. His country was exhausted; without union, without money, and without credit; flushed with victory, and a gallant army at command, like other conquerors he, too, might have taken advantage of the times, triumphed over the rights of the people, and ascended to empire. But, ambition stop thy mad career, and copy the glorious example. Instead of fomenting, he appeased and suppressed the discontent of an enraged soldiery; and after having led them from victory to victory, and dispelled the horrors of a bloody and pro-

tracted war, and there was nothing else to conquer but himself or the liberties of his country, he stripped victory of her chains, embraced for the last time his officers, the companions of his glory, and with tears in his eyes bid his soldiers an everlasting farewell; then repaired to the Hall of Congress, and resigned back to the representatives of the people that power which he had used only to redeem them and their countrymen from misery, from slavery, and from death.

What American, within the hearing of my voice, whose heart does not melt with gratitude at the name of Washington! What language so barbarous as does not speak his name! What nation so distant as does not resound with his praise! Eminent without magnificence; superior without vanity; and elevated without pride, he was the admiration of an astonished world. Faithful to his friends, generous to his companions, and a philanthropist to the very being of man, he lived loved by the good, caressed by the great, and feared and respected by his very enemies. Firm and inflexible in the pursuit of justice and truth, he scorned equally simulation and detraction.

Greece may tell of her legislators; Rome may tell of her heroes, but what age or country can boast a Washington—a man so renowned both in peace and war? Leonidas was patriotic; Aristides just; Hannibal was patient; Fabius prudent; Scipio was continent; Cæsar merciful; Marcellus courageous, and Cato of inflexible integrity: yet, these virtues which separately distinguished those mighty men of antiquity, were all united in the character of this singular great man, and raised him above the level of mankind; he was so pre-eminent that envy never dared to raise its malignant glance to the elevation of his virtues. Other heroes are renowned for subjugating—he for liberating his country. Kings and Princes derive honor from crowns and from sceptres—he, less from the splendor of station than the dignity of his own mind. Cæsar and Pompey, on the plains of Pharsalia, competed for the mastery of the world—he, amidst contemporaries capable of saving and ennobling empires, ran his splendid career without a rival or competitor. To crown all his other great qualities, and, if possible, to consecrate human greatness, he was a Christian—not only the favorite of the earth, but we humbly hope of Heaven.

Whilst the conduct of other great men in public life tend to ennoble the hero and render illustrious the statesman, in private it is cursed with every vice which degrade the man. In public life, Washington's conduct was unrivalled; and, in private, there was not one circumstance of his whole life which virtue would blush to own. As, in the meridian of life, religion gave dignity to every action, so in the evening of his days, when the troubles and perils of life were past, it beamed resplendent, like the rainbow on the skirts of the storm that is gone, the blessed harbinger of eternal sunshine in the realms of everlasting day.

But, Mr. Speaker, to estimate still more correctly the character of this great man, let us pause for a moment, and take a cursory view of the present unhappy situation of other countries and people, compared with our own. Look through the extensive continents of Africa and Asia, and there is not the least vestige of learning* or liberty to be found, however industrious the research. Egypt, the cradle of letters, is now the abode of ignorance and fanaticism. The descendants of Ham are sold into every clime, and those that remain wither under the despotism of chieftains, who consign them to destruction with as little remorse as the rude storms of the desert which ravage their native clime.

Assyria, once the proud mistress of Asia, has long since been blotted from the face of empire. Babylon, with her wall which proudly defied the Persian, has mingled with the dust, and the lonely traveller weeps over the ruins of Palmyra with scarcely a page to tell its name.

Where are now the sons of Abraham, once the favorites of Heaven? They are banished from the land of promise, and, as was prophesied, are "sifted among the nations of the earth."

Look into humbled Europe, and lo! there is not one azure spot to cheer the gloom of the political horizon. The Ottoman slave treads, insensible, the glorious field of Marathon, and despotism sways her iron sceptre at the very Strait of Thermopylæ. Persecuted liberty has fled from England, the country of Hampden and Sydney, and, although the workshop of the world, she is cursed with a debt which no industry can redeem. Poland, martyred Poland, with sixteen millions of people, forms one of the outposts to the empire of the descendant of Magog! Italy, the home of the Cæsars, and the grave of the heroes of antiquity, cringes under the domination of timid Austria. Whilst France, generous, gallant France, plundered and exhausted, weeps over the recollection of the splendor of days that are past.

Then turn your attention to this happy country, "the land of Washington and sky of Franklin;" the home of the homeless; the last refuge of oppressed humanity. Here agriculture flourishes; our commerce whitens the ocean, and every wind that blows wafts into our ports the riches of every clime. Here we find an empire of laws which guards our rights, both civil and religious, and which knows no distinction but such as merit confers and virtue approves. Where the poor man, in the tattered garb of plebeian humility, sits enthroned upon the altar of justice, and there is no titled, fictitious greatness to injure or oppress him.

Contrast this happy situation with that of

* Mr. E. is aware of the College of Fort William, and the Bibliotheca Biblica in Bengal, the Santa Casa or Holy Office at Goa, and the schools established at Sierra Leone, by the British on the western coast of Africa; but the benefit which has resulted from those establishments is not yet perceptible.

Europe, Asia, and Africa; contrast it with your own situation under colonial servitude; read your Declaration of Independence, and realize, if you can, the black catalogue of injury and oppression under which you then groaned; your petitions rejected—your complaints derided and suppressed—not by a redress of grievances, but by menaces; a whole people outlawed, and given up to military despotism; then ask yourselves who headed your armies, who fought your battles, who most contributed to raise you from that state of misery and dependence, and gave you rank among the nations of the earth. And O my country, I blush to think this our greatest earthly friend, almost within sight of the very walls in which we deliberate, reposes under the humble clod of the hill, without one national stone to tell posterity where he lies. I call upon the venerable patriots of the Revolution, some of whom I yet see mingling in the deliberations of my country; I call upon the friends of Warren and of Greene, of Mercer, Sumter, Marion, and Montgomery; nay, I call upon the Representatives of the whole American people to redeem my country from such deep ingratitude; and if any remnant of affection for WASHINGTON still lingers about the heart, I know I will not call in vain. When did your country ever call, and he did not obey? When did it ever want his aid, and he did not readily yield it his assistance? What is your whole history? It is but little more than the record of his obedience, his virtues, and his services; and, painful to think, this same history, whilst it will record the unfeeling ingratitude of his country, will inform posterity that, for that very country, he staked his life, determined to redeem it from slavery or perish in the attempt. And can you—will you refuse to bury him? Oh no! Let us rise up at once, and with united acclaim decree him a statue. Let us outstrip the march of ages, and erect a monument, not merely equal to our present condition, but commensurate with the splendid destiny which awaits us. He is the Father of our Country; let us demand his body, and erect over it a mausoleum at which Time in his passage to eternity will point and tell to every age the glorious gratitude of the American people. And when the national sympathy shall be forgot, and the memory of man faded away; when tradition itself shall have had an end, and history be regarded as the splendid fiction of fancy or tale of romance, this monument shall stand throughout every age, the imperishable evidence of his virtues and a nation's love.

When Mr. E. had concluded, the question was taken that the House do now proceed to consider the said resolves, and it was decided in the negative.

WEDNESDAY, April 19.

Public Lands—Reduced Price and Cash Sales.

The House then took up the bill making further provision for the sale of the public lands.

In the further debate which took place on this bill, the main object of the bill (to reduce the price of the public lands from the present price to one dollar and twenty-five cents per acre, and to abolish credits thereon) was supported and opposed by the following gentlemen: *Affirmative*—Messrs. ANDERSON, BARBOUR, HARDIN, SLOAN, and STORRS. *Negative*—Messrs. CLAY, BROWN, BUTLER of Louisiana, COOK, HENDRICKS, JONES of Tennessee, and McLEAN of Kentucky.

Some other gentlemen incidentally engaged in the discussion on amendments, &c., and the bill was finally passed by a vote of 133 to 23, as follows:

YEAS.—Messrs. Abbot, Adams, Alexander, Allen of Massachusetts, Anderson, Archer of Maryland, Baker, Baldwin, Barbour, Bateman, Bayly, Beecher, Boden, Brush, Buffum, Campbell, Case, Clagett, Clark, Cobb, Crafts, Crawford, Culbreth, Cushman, Cuthbert, Darlington, Davidson, Dennison, Dewitt, Dickinson, Dowse, Earle, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Edwards of North Carolina, Fay, Fisher, Floyd, Folger, Foot, Forrest, Fuller, Fullerton, Garnett, Gross of New York, Gross of Pennsylvania, Hall of New York, Hall of Delaware, Hall of North Carolina, Hardin, Hazard, Hemphill, Herrick, Hibshman, Heister, Hill, Holmes, Hooks, Hostetter, Kendall, Kinsey, Little, Linn, Livermore, Lyman, McCoy, McLane of Delaware, Mallary, Marchand, Mason, Meech, Meigs, Mercer, R. Moore, S. Moore, Monell, Morton, Mosely, Murray, Neale, Nelson of Massachusetts, Newton, Overstreet, Parker of Massachusetts, Parker of Virginia, Patterson, Phelps, Philson, Pinckney, Pindall, Pitcher, Plumer, Rankin, Reed, Rhea, Rich, Richards, Richmond, Robertson, Rogers, Ross, Russ, Sampson, Sawyer, Sergeant, Settle, Shaw, Silsbee, Simkins, Sloan, Slocumb, Smith of New Jersey, Smith of Maryland, B. Smith of Virginia, Smith of North Carolina, Southard, Storrs, Strong of New York, Swearingen, Tarr, Taylor, Tomlinson, Tompkins, Tracy, Tucker of South Carolina, Tyler, Van Rensselaer, Wallace, Wendover, Williams of Virginia, Williams of North Carolina, and Wood.

NAYS.—Messrs. Allen of Tennessee, Ball, Bloomfield, Brown, Bryan, Burwell, Butler of Louisiana, Cannon, Cook, Crowell, Culpeper, Ford, Hackley, Hendricks, Johnson, Jones of Tennessee, McCreary, McLean of Kentucky, Metcalf, Stevens, Trimble, Tucker of Virginia, and Walker.

FRIDAY, April 21.

Revision of the Tariff.

The House then resolved itself into a Committee of the Whole, on the bills reported by the Committee of Manufactures, and the Committee determined to take up, first in order, the bill "to regulate the duties on imports and tonnage, and for other purposes." This bill proposes changes in relation to the duties on goods imported, in the proportions which are denoted in the following table, copied from that compiled and printed for the use of the House of Representatives:

A comparative view of the existing Tariff of Duties on goods imported from foreign countries as estab-

lished by the act of 27th April, 1816, entitled "An act to regulate the duties on imports and tonnage," as amended by the act of the 20th of April, 1818, entitled "An act to increase the duties on certain manufactured articles imported in the United States," and that proposed by the bill now depending in the House of Representatives of the United States, "to regulate the duties on imports and for other purposes."

ARTICLES.	Old tariff.	New tariff.	Rate of addition'l duty.
First class of articles, per cent.	$0 07 1-2	$0 12 1-2	2-3
Second,	15	20	1-3
Third,	20	25	1-4
Fourth and fifth classes, viz:			
Woollen manufactures,	25	33	
Cotton do., and cotton twist, not from India,	25	33	Say 1-3
Ditto, do. from India,	25	40	
Linen manufactures,	15	25	
Clothing, ready made, Bonnets, hats and caps of wool, fur, leather, straw, chip, or silk,	30	40	
Silk manufactures from India,	15	30	
Printed books,	15	35	
Painted or stained paper, and paper hangings,	30	35	
Clocks and time-pieces, Umbrellas, sticks, and apparatus for umbrellas, Bonnets and caps, not otherwise taxed, Fans, feathers, flowers, millinery, perfumes, washes, Painted floor cloths, oil cloths, mats, salad oil, capers, mustard, olives, preserves, wafers, sweetmeats, Manufactures of wood, coarse lace, carriages, and furniture for do. Leather, and manufactures of leather, brushes, canes,	30	35	Say 1-6 a
Gilt and plated ware,	20	$0 35	
Cut glass,	30	35	Included in two preced'g classes.
China, earthen, stone ware, and crockery,	20	35	
Manufactures of marble and alabaster,	15	35	
Ale, beer, and porter, in bottles, galls.	15	20	1-3
Do. not in bottles, do.	10	15	1-2
Alum, cwt.	2 00	3 00	1-2
Almonds, lb.	03	04	1-3
Bl'k glass bottles, gross	1 44	2 00	1-4
Boots, pair	1 50	2 00	1-3
Bristles, lb.	03	03	Free.
Playing cards, pack	30	35	1-6
Tarred cables and cordage, lb.	03	04	1-3
Untarred ditto, twine and thread, lb.	04	05	1-4
Candles, tallow, do.	03	05	2-3
wax and sperm, do.	06	08	1-3
China Cassia, do.	06	10	2-3
Cinnamon, do.	25	33 1-3	
Cloves, do.	25	35	2-5
Cheese, do.	09	09	

STATEMENT—Continued.

ARTICLES.	Old tariff.	New tariff.	Rate of addition'l duty.
Chocolate, lb.	02	04	
Cocoa, do.	02	03	1-2
Coal, heaped, bushel	05	05	
Copperas, cwt.	01	2 00	Double.
Copper rods, spikes, bolts, and nails, and composition, do. lb.	04	04	
Corks, do.	15 per ct.	15	
Coffee, do.	05	06	1-5 do.
Cotton, do.	03	06	Double.
Currents, do.	03	04	1-3 do.
Figs, do.	03	04	1-3 do.
Fish, for'n caught, qntl.	$1 00	1 00	
Mackerel, bbl.	1 50	1 50	
Salmon, do.	2 00	2 00	
All other pickled fish, do.	1 00	1 00	
Window glass, 8 by 10, 100 sq. ft.	2 50	3 00	1-5 do.
Ditto, 10 by 12, do.	2 75	3 25	
over 10 by 12, do.	3 25	3 75	
Plain uncut flint glass, lb.	20 per ct.	10	
Glue, do.	05	10	Double.
Gunpowder, do.	08	10	1-4 do.
Hemp, cwt.	1 50	2 50	2-3 do.
Iron and steel wire, not over No. 18, lb.	05	05	
over No. 18, do.	09	09	
Iron in bars and bolts, manufactured except by rolling, cwt.	75	1 25	2-3 p. ct.
Iron in sheets, rods, and hoops, do.	$2 54	$3 00	1-5 do.
Iron in bars and bolts, manufactured by rolling, do.	1 50	2 00	1-3 do.
Anchors, do.	2 00	2 00	
Iron in pigs, do.	50	75	1-2 do.
Iron castings, do.	75	1 50	Double.
Spades and shovels, each	20 per ct.	25	
Slate and tiles for building, not over 12 inches square, per 1000		2 00	
12 to 14 in. sq. do.		3 00	
14 to 16 do. do.		4 00	
16 to 18 do. do.		5 00	
18 to 20 do. do.		6 00	
Paper, folio, pot, quarto post, crown, &c., lb.	30 per ct.	20	
royal imp., &c., do.		15	
printing, and copper plate, do.		12 1-2	
other coarse, do.		10	
Screws of wire, gross		8 to 20	
Ginger, rough, lb.	15=8-10	1, say 2	
ground, do.		04	
preserved, do.		10	
Silk, sewing, and silk & worsted twist, lb.	16 per ct.	1 50	
Indigo, do.	15	15	
Lead in pigs & bars, do.	01	01	
sheets, do.	01	02	
shot of lead, do.	02	03	1-2 p. ct.
red and white, dry or in oil, do.	03	04	
Mace, do.	$1 00	1 25	1-4 do.
Molasses, gal.	05	10	Double.
Nails, of iron, lb.	04	05	1-4 p. ct.
Nutmegs, do.	60	75	1-4 do.
Pepper, do.	06	10	1-2 do.
Pimento, do.	08	08	1-3 do.
Plums and prunes, do.	03	04	1-3 do.
Raisins, in jars or boxes, lb.	03	04	1-3 do.
all other kinds, do.	02	03	1-2 do.
Salt, bushel of 56 lbs.	20	25	1-4 do.

STATEMENT—Continued.

ARTICLES.	Old tariff.	New tariff.	Rate of addition'l duty.
Ochre, dry, lb.	01	01	
in oil, do.	01 1-2	01 1-2	
Steel, cwt.	$1 00	1 50	1-2
Cigars, 1000	2 50	5 00	Double.
Spirits, from grain, first proof, 42 cts.; 2d, 45; 3d, 46; 4th, 52; 5th, 60; over 5th, 75.	same.	same.	
From other materials, 1st, 38; 2d, 38; 3d, 42; 4th, 48; 5th, 57; over 5th, 70.	same.	same.	
Shoes & slip's, silk, pr.	30	50	1-3
leather, do.	25	50	Double.
for children, do.	15	25	2-3
Spikes of iron, lb.	03	04	1-3
Soap, lb.	03	04	1-3
Sugar, brown, do.	03	04	
white, clayed, & powdered, do.	$0 04	$0 05	1-4
lump, do.	10	12½	
loaf, and sugar candy, do.	12	15	
Snuff, do.	12	45	
Tallow, do.	01	01	
Tea, from China, in American vessels, bohea, lb.	12	25	Double.
Souchong and all other black teas, 34 lb.	25	25	
Hyson Skin, do.	27	25	
Imperial, Gunpowder, and Gomee, 68 lb.	50	50	
Hyson, and Young Hyson, 56 lb.	40	40	
Other green, 38 lb.	28	28	
Tobacco, manufactured, other than snuff and cigars, lb.	10	10	
Whiting, and Paris white, lb.	01	01	
Wines, Burgundy, Madeira, Tokay, Champaign, and Rhenish, galls.	1 00		
Sherry and St. Lucar, galls.	60		
Lisbon, Oporto, and others, of Portugal, and Sicily, galls.	50		
Teneriffe, Fayal, and other West India isles, galls.	40		
all other kinds, galls.	15		
do. in bottles or cases,	30 per ct.		
Russia duck, ps.	$2 00	2 00	
Ravens do. do.	1 25	1 25	
Holland do. do.	2 50	2 50	
Spermaceti oil, of foreign fisheries, galls.	25	25	
Whale oil, do.	15	15	
Olive oil, in casks, do.	25	25	
Linseed oil, do.	15 per ct, say 16cts.	25	
AD VALOREM.			
Blue vitriol, lb.		06	
Oil of vitriol, do.		05	
Nitric acid, do.		06	
Muriatic acid, do.		04	
Sugar of lead, do.		06	

The bill having been read through—

Mr. BALDWIN, of Pennsylvania, said:—In presenting this bill to the consideration of the House, it is proper that the views of the Committee of Manufactures should be fully explained. The task assigned to them has been one of no ordinary interest; the subjects on which it has been their duty to act may have an important bearing on the whole internal policy of this Government; and the measures recommended are such as, in their opinion, will essentially benefit the nation. In maturing them, the committee have not (as the gentleman from Massachusetts, Mr. FULLER, seemed to think) considered themselves a private committee, acting on the private petitions of individuals, who sought support and encouragement from Government at the expense of the nation. They have not examined the petitions or statements of manufacturers, with a view of ascertaining whether their establishments are productive or losing. Their interest has not been a leading motive in our minds; it was of little importance; and if this bill, either in its general principles or its details, cannot be supported on national principles, we are willing that it should fall, and that its fate shall be ours. We have thought that this nation can never be flourishing or independent, unless it can supply from its own resources its food, its clothing, and the means of defence; that, to be dependent on foreign nations for the articles essential for these purposes, is inconsistent with true policy; and that the system which has entailed on us this dependence must be radically changed. In a matter which involved so many interests, we found many embarrassments—among not the least of them, those which arose from the duties assigned to the different committees of this House. The Committee of Manufactures was a new one; its powers and duties were undefined by any rule; the various subjects referred to them related as well to the revenue and commerce of the country as its manufactures. It was our wish that each committee should act on its appropriate subjects, not to encroach on the jurisdiction of either. It was our first intention to have reported a bill which should have related only to the manufactures of the country. But the House will recollect that, at a very early period of the session, a resolution was passed, calling on the Secretary of the Treasury to report the effect on the revenue of a prohibition of woollens, cottons, and iron; that his reply was, that an increase of duty on those articles would impair the revenue, and tend to introduce smuggling. This was a subject on which he knew the House was sensitive—a deficit in the receipts of this year of five millions, had been officially announced by the Treasury. The Committee of Ways and Means had reported no bill, had recommended no means of filling the Treasury, and, to our repeated calls, had answered that none would be adopted by them. You now find that the result of all their deliberations has ended in the bill on your table, authorizing a loan of four millions—two directly, and two from the Sink-

ing Fund—to meet the ordinary expenses of the year. I did not approve of the resolution which had thus called on the Secretary of the Treasury to take a part in this great national controversy, and thought it not right in gentlemen to call in the influence of that department against a large portion of the nation, struggling against what they conceived to be the indifference of our own and the efforts of foreign Governments. To have framed a bill confined to the sole object of promoting the manufactures of the nation, by imposing a high duty on those of others, the effect of which would have been still further to diminish a revenue already incompetent to our ordinary expenses, would have thrown us in the way of the very difficulty which gentlemen had so early foreseen, so carefully provided against. The cry of revenue, the Treasury, and smuggling, would have effectually defeated all our projects. There was no other committee disposed to act in concert with us. Left thus alone—the Treasury report against an increase of duties; the Treasury itself empty; the Committee of Ways and Means unwilling to assist in filling it, and yet called upon by the petitions of thousands of individuals to do something to protect the industry of the nation—the committee had no alternative but to abandon, subject to certain destruction, the great interest confided to their care, or to go the extent of their jurisdiction, and report a system which, while it would not injure the commerce, should aid the revenue, and save the manufactures of our country. In recommending a general revision of the existing tariff, we are sensible of being exposed to the imputation of encroaching on the province of other committees; but, as they have declined or refused to act, I hope no objections on this score will come from them. From the House I anticipate none—confident in the hope that they will inquire, not so much from what committee this bill emanated, as whether its provisions will promote the general welfare. And if, in the opinion of the House, this measure is called for by the distresses of the country; if it will tend to their relief, and to restore the nation to its former prosperity; if it is essential that such encouragement should ever be given to national industry as will enable us to supply the articles of our own consumption, you have the authority of the Secretary of the Treasury for saying that this is the proper time. In his annual report on the finances, he tells you this in the most explicit language; he tells you, too, that your present revenue is insufficient—you must increase it, or diminish your expenditure.

This is a time of profound peace, when our expenses are those only of an ordinary Peace Establishment; no national calamity has befallen us; yet a loan is necessary for the present year, and a larger one will be required for the next. When a system of revenue has thus completely failed, and from the operation of plain and natural causes; when we cannot flatter ourselves that, in the present state of the world, it can become better, but are certain that it must become worse, it is time to look to our situation and retrace our error. It is an unpleasant duty in any committee to be obliged to examine existing systems, and recommend a change, but it will be at once perceived that the nation which relies for the means of paying its expenses solely on imposts, must encourage the importation, and not the manufacture, of its article of consumption. Whilst this is its policy, its internal industry must be confined to articles of export, to pay for foreign fabrics which are imported. With importations, revenue must diminish; and this has been the reason why all attempts to promote our own manufactures have hitherto failed. Now the system must be changed; you must either make perpetual loans, or open new sources of revenue, by giving a new turn to the labor of the nation. At all events, I beg gentlemen to consider that, to me, the danger to the Treasury is no answer to this bill; if it is empty, it is not my fault. Two short years since I was in a proud minority of five that opposed the repeal of those taxes which, if continued, would have given you an abundant revenue. If, in their abolition, the encouragement of manufactures has been retarded, let no inconsistency be charged upon me; if the system has failed, it is not because it has not had its full and fair operation, but because it is inconsistent with the present situation of this country and Europe. You may resort to temporary expedients; but the people of this country will not consent to a continual accumulation of debt, in order to protract a system which can alone heal the general distress. What must be done should be done soon. The able and intelligent officer at the head of your finances tells you this is the time; and I tell you, that you may as well avoid the approaches of old age, or the stroke of death, as a change in your financial system. You must not wait till the voice of the people calls for it in language which you cannot resist, and when the revulsion will be so sudden as to shake to its foundation the system to which gentlemen now cling so eagerly. If this miserable system of impost, as the exclusive source of revenue, is necessary for the support of commerce; if the internal industry of the country is to be checked and protracted till public opinion demands the change, let gentlemen beware lest all parts of the system go together.

Those who now complain that the Committee of Manufactures propose too much, will, when that day arrives, (and come it must,) regret the rejection of this bill, which proposes a change—gradual, but necessary for the prosperity of the country. In proposing it, the committee are aware that, from one side of the House, we shall be assailed with the cry of, you will ruin commerce; from the other, agriculture; and from all, smuggling and revenue. In telling us that commerce supports the Government and furnishes its revenues, gentlemen must not deceive themselves in thinking that the people of

this country do not know that the consumer of foreign goods, and not the foreigner or importer, pays the impost. The consumption of foreign produce, and not its importation, is the source of the revenue; a kind of taxation the more oppressive on the people, because, by employing the merchant or collector, the consumer pays, not only the amount of duties, but the accumulated profits of all the merchants through whose hands the article passes from the custom-house to the consumer. If the committee are censured for speaking thus plainly of a system on which this Government has hitherto rested for its support, the House must recollect that, at its organization, impost was only one, not the exclusive source of revenue. As soon as the debts of the Revolution were assumed by the New Congress, a system of excise and internal taxation was resorted to, as a paramount means of paying the interest of the National Debt. During the administration of General WASHINGTON and his immediate successor, an excise on spirits, snuff, and snuff mills, duties on refined sugar, licenses to retailers, carriages, auctions, and a stamp act and land tax, were imposed. Let it not be forgotten that, in the preamble to the act for laying an impost, the encouragement of domestic manufactures was one of the avowed objects of the law. This was the revenue system of the founders of our Government. We do not attack, but rest upon it; it is the only one on which this nation can rely for permanent protection in a time of European peace; we must recur to it, unless another great convulsion should again derange all the institutions of the civilized world. The policy of this Government was changed, not because it was found unwise, but because the continuance of the war in Europe rendered it unnecessary. Then other nations wanted our provisions; their price was such that the labor of this country was diverted from its natural course. Instead of making, we imported the articles of common consumption. The impost was found sufficient for all our wants. But, in the change of events, Europe can now feed herself, and can compete with us in other markets for our provisions. Those nations from whom we import the most, now refuse to receive our produce at any price. Thus there has been a radical change in those relations with other nations which gave the turn to our national industry. A wise Legislature will and must shape its internal policy to meet the changes which make a revision necessary. The present is not a forced, but the natural and settled state of this country. The events of the last thirty years have been unparalleled in history; we must not expect their recurrence, at least in our time. It requires no reasoning to prove that measures calculated on a general war in Europe will not suit a general state of peace; they must and will be controlled by circumstances. We must look to facts, and profit by experience. Effects will flow from causes; they cannot be averted or avoided; we must meet them sooner or later. It is best not to attempt to conceal from ourselves or the nation the necessity of coming back to the original system on which this Government first commenced its operations. In proposing the measures which the committee have reported, we have thought it best to avow the intention to be such a change in our internal policy as will gradually lead the people of this country to be independent of any other for the essential articles of subsistence and the means of defence. We well know it is a thankless, ungracious task. The manufacturers complain that too little, the merchants that every thing, and I well know that here it is thought that too much has been done. These measures have caused much excitement. This is not the time to expect that justice will be done to our motives. But the committee have this, and it is no small satisfaction that, though they have not pleased others, they have pleased themselves. Their system has been matured with much pains, and with the most anxious desire to relieve alike all the suffering interests of the country. How far this bill is so calculated the House will judge, from an examination and comparison with the existing tariff, which I will now explain, begging that gentlemen will not forget one thing—that the present tariff was a revenue bill, reported by the Committee of Ways and Means, more to aid the Treasury than to protect the industry of the country. The report of Mr. Dallas was strongly in favor of domestic manufactures; yet, in that of the Committee of Ways and Means, it is remarkable that the word manufactures is not mentioned. I presume that the gentleman from South Carolina, who was then the chairman of that committee, had then the same opinion on the subject that he now entertains. When gentlemen complain of the extravagant protection that this bill affords to national industry, they are, perhaps, not aware that, in general, it exceeds but in a small degree that recommended in 1816 from the Treasury, almost exclusively for revenue. They must not think it strange if a Committee of Manufactures, combining this with other great national objects, should have felt it their duty to propose some changes necessary to meet the calls of the country.

The bill proposes—

A duty of 12½ per cent. ad valorem on the articles enumerated in the first class, and 20 per cent. on all not enumerated, which embrace many manufactures, but which it was thought best not to particularize. In the present tariff, these were at 7½ and 15 per cent. The committee could discern no good reason for leaving them at this low rate of duty, and were abundantly convinced that, for the double purpose of revenue and manufactures, the proposed rates were proper. It would be going too much in detail to trace the various rates of ad valorem duties from 1789 to 1804. In that year they were permanently fixed at 12½, 15, and 20; with the addition of the Mediterranean Fund, they were 15, 17½, and 22½, and continued so during the most prosperous period of our com-

merce and revenue, till, in 1812, when the permanent duties were doubled, making 27½, 32½, and 42½. They continued so until 1815, after the peace, when the Mediterranean Fund ceased, and the duties remained till July, 1816, at the rates of 25, 30, and 40 per cent. ad valorem. Had they remained so, you would not have been assailed by general cries of distress from all parts of the nation; we should have enjoyed, not a nominal, but a real independence; our resources would not have been sent abroad to protect and reward the industry of others to the ruin of our own merchants, manufacturers, and farmers. But it was thought proper to reduce the duties; and the fear of smuggling, it seems, is assigned as the reason. I am not enough acquainted with the mysteries of commerce to know what is the smuggling point.

Gentlemen may talk about it as they please; there is no evidence that our duties have ever been so high that there has been smuggling to any great extent. From 1804 to 1812 the lowest rate of duties was 12½ per cent.; we heard no complaints then; during the year 1815 and the first six months of 1816, the lowest duty was 25 per cent. The importation of ad valorem articles in 1815 amounted to eighty-six millions of dollars, and gentlemen are called on for the proof of smuggling. They must give reasons better than the mere suggestion of this danger, against this small increase of duties, which is, in effect, only coming back to the old rates before the war. We are not to be deterred by threats of this kind; and, judging from experience, have no fears that an increase of duties, even to the war rates, would produce this effect; but if there was danger, it is no argument to us to be told that this Government is unable to enforce measures which are adopted as necessary to the general welfare. We are not so weak; our laws are not so insufficient; the rates proposed have been collected, and they can and will be collected if enacted. When the danger becomes realized it will be time to apply the remedy. While it is merely fanciful, and, as I believe, held out to defeat the salutary provisions of this bill, I shall not deem it worthy of further notice. The next rate of duty is 25 per cent.; in the present tariff these articles are rated at 20, but in the bill reported by the Committee of Ways and Means they were recommended at 22. I hope it will not be thought extravagant that we propose an addition of three per cent. Articles of copper are at present at 25 per cent. One expression is changed, which will be found to apply to most of the ad valorem articles in this bill; in the old tariff it is "material of chief value;" this creates great difficulty at the custom-house, where an article is composed of materials paying a different rate of duty; it is generally entertained as made of that which pays lowest, thus defrauding the revenue and injuring the manufacturer. To avoid this, the committee have adopted the expression "component material," so that any article composed of mixed materials pays the duty of the highest. The House will observe that there is in this clause a drawback of the duties on sheet copper, used in building or repairing ships; in the present tariff "copper and brass in pigs, bars, or plates, suited to the sheathing of ships," is duty free. Under this clause all sheet brass and copper imported, for whatever purpose, is embraced, to the great injury of one class of manufactures, and the diminution of the revenue. While the committee are fully disposed to protect that most noble manufacture, a ship, they are unwilling that any other advantage should be taken of a provision intended solely for this purpose. It is believed that this object is fully answered by the proposed drawback. It has been submitted to intelligent and experienced merchants, and no objections have occurred. While on this subject I must notice some publications in which the committee are charged with hostility to commerce and shipbuilding, in raising the duty on sheathing copper and sail duck. The best answer to the charge is, that it is not true; in fact, this bill proposes no change on either; the duck is an important article of manufacture, for which we ought not to be dependent on any other nation, and which ought to be encouraged; yet the committee were unwilling to interfere with it. We expect much abuse and have received no little; but let me give one word of advice to those inclined to bestow it so liberally; read before you write.

The next clause proposes a duty of thirty-three per cent. on woollens. In Mr. Dallas's tariff it was proposed at twenty-eight. On cottons, of thirty-three; the same as proposed by him. Both are now at twenty-five. These being among the most important items in the bill, the House must indulge me in going fully into the reasons which have induced the committee to propose the additional duty. It would seem almost unnecessary to convince this House that the interest of the nation required that it should clothe itself; that it ought to feed itself will not be denied; yet food is not more necessary than raiment, and I cannot see how any people can be independent who must look abroad for that. At all events, the committee have thought that, in bottoming this bill on this national principle, that we ought to feed, clothe, and be able to defend ourselves, we placed it on ground that could not easily be shaken. Our motives rise higher than the interest of manufacturers; whether they make money or lose money now; whether it tends to enrich one or another, or all classes of society, has scarcely entered into our consideration. The nation must command its own consumption, its own means of defence. The last war found us destitute. I beg the House to remember what the gentleman from Kentucky told us the other day; that our gallant soldiers were destitute of clothing, until the Government connived at smuggling, to procure cloth from the nation with whom we were contending. National feeling, if not interest, should forbid

the recurrence of such a scene; it shall not be charged on the Committee of Manufactures. If it was right in 1816 to impose a duty of twenty-five per cent. on woollens and cottons, principally with a view to revenue, there will be found a strong reason for its increase in the duties now imposed by the British Government, of six pence sterling on every pound of wool, and six per cent. *ad valorem* on cotton wool, imported after the 5th January, 1820. Wool has been an article of export from this country to England. The new duty excludes it; the ports are now shut against your provisions; they will not permit its importation till the price of wheat is ten shillings sterling a bushel. Let those who complain so much that the agricultural interest will suffer by this bill, reflect on these facts. Let the farmer decide whether it is most for his interest to purchase his clothing from the foreign manufacturer, who will purchase neither his wool nor his provisions; or the domestic one, who will give him a market for both, in his anxiety to guard against the profits which may accrue to his neighbors and countrymen, by the success of their manufactures. Let him be sure that he falls into better hands by trusting himself to the liberality of foreigners. It is feared that there will be a monopoly and a desire of speculation, if our own countrymen can supply our demands; yet there seems to be no fear that our course of policy should give that monopoly to the British manufacturers. Hundreds, thousands of our citizens, are out of employment; they would add infinitely to the national wealth, to our independence, and save its resources at home, if their labor was employed in converting our raw materials into fabrics for our own use. But it is contended that our true policy is to employ the labor of other nations, pay them the profits of their manufactures, for the purpose of directing the industry of ours to productions which can find no market abroad, and have no value at home. These new duties imposed in England on wool and cotton ought to awaken us to our situation; no part of the country ought to be more alive to their effects than that from which the opposition to this measure is the greatest. England does not wish to encourage the cotton of America. She gives you unequivocal indications of her policy. She will take it till her colonies can furnish her supplies. Though her best customer, though she now depend on us for the raw material to support her manufactures, she takes wool from the continent, cotton from us; but imposes heavy import duties, which are paid by us who consume the manufactured articles. We thus furnish her Government with revenue, her laborers with employment, while ours are idle.

I am afraid we are not aware of the bold and dangerous experiment we are trying. We are now to decide on the course of internal policy which shall best develop the resources, promote the industry, and secure the independence of the country. Is there not some danger of our erring, by adopting the system which best accords with the views of the British Government? If it were submitted to them to choose a set of measures for us which would best promote their interest, we well know it would be such as would secure to their merchants, manufacturers, and mechanics, the supply of all our articles of consumption and defence; to give to them the employment of the labor and the profits of converting the raw materials into fabrics for use. It is the source of their national greatness; the great object to which all their efforts are directed; their policy is most unyielding and unbending. It has existed for ages, and been completed by a steady and uniform series of legislation; they have not left things to "regulate themselves;" this has not been, it will not be their maxim, but they wish to see it adopted by those who are to be the dupes of their policy. What is sound political economy there, is, it seems, here the raving of madness, the result of empiricism; yet it would excite some sensation in this House if the Ministers of England should formally present us with a plan for our adoption; we should, at least, inquire whether it was the result of their friendship to us, and whether it would not be as safe to trust to the opinion and advice of our own statesmen. To import only our raw materials and provisions, to be our exclusive merchants and carriers, was their colonial policy before the Revolution. The great men whose wisdom carried us through that struggle, did not then think that the system of internal policy which was best calculated to secure our independence and to coerce England to secure our rights, was to afford employment to her citizens, encouragement to her artificers, to the impoverishment of our own.

The immortal Congress of 1774 entered into an agreement not to export any produce to England, to import no goods from that country, to consume none made there; and denounced, as enemies to American liberty, any person who would violate this agreement. It has never been charged on Bonaparte that he was deficient in foresight, or did not understand the mode of attacking his enemy. His continental system was not aimed at the influence or political power of England, but against her manufactures. That he knew to be the source of her power, and there he attacked her. To save them, England fought and subsidized all Europe. There has been a strange revolution in the moral world, if the connection between causes and effects is now dissolved; if the measures which, in 1774, were necessary to secure, would now be destructive of the great interests of this nation. We have been taught to look with veneration to that Congress; it is, indeed, a change, when we forget their maxims; and, in contending with the same nation for the same rights, reject and spurn their principles as wild and ruinous, anxious to adopt those recommended by the Ministry and political economists of England. This is, at all events, a dangerous experiment;

before we trust too much on it, we ought to be sure that the solid interests of the country, and not its destruction, is their governing principle. It will be said that more liberal ideas are now adopted by other nations; that the principles of political economy are now better understood. France has been mentioned; but when her tariff is examined, it will be found to be more rigid—to contain more prohibitions than that of England. As to us, it contains some provisions which, I think, cannot fail to alarm the agriculturists, the cotton planters of this country. It is worthy the attention of this House to look at their import duties on cotton wool:

From India, 30 f. per 100 kil., equal to $3 per cwt.
Other countries out of Europe, 40 f. per 100 kil., equal to $4 per cwt.
Entrepots, 50 f. per 100 kil., equal to $5 per cwt.
Turkey, 15 f. per 100 kil., equal to $1 50 per cwt.
French colonies, 10 f. per 100 kil., equal to $1 per cwt.

This short item contains much information and instruction. Their whole tariff breathes against your agriculture and commerce a spirit of hostility as unequivocal as any regulation of England; as to cotton, more so; it is a duty of $4 per 100 pounds; equal to 20 per cent. ad valorem on the raw material, while England imposes only 6; that it is aimed at this country is evident from its being $2 50 per 100 pounds, more than on cotton from Turkey, and one dollar more than from India. If it is a reason why the cotton of Turkey should be preferred on account of the profits of her trade, it cannot extend to India, to which they export little; but ought to bear lightly on us, as we are one of the best customers of France for her wines, brandy, silks, cotton, and small wares. She requires our cotton now, but this duty is an earnest of what you may expect from her when she can procure a supply from her colonies or other countries. She receives your tobacco, but takes care to exclude us from all chance of a competition in the market, by compelling a sale to the Government, who buy at their own price. Rice, from India, pays one dollar per 100: from America, two dollars. Thus, we find the two nations with whom our intercourse is the greatest, pursue the same policy as to our great agricultural products, the only ones they receive from us; they are enriched by the manufacture of it—we purchase immense quantities of their cottons, and woollens, and silks; these favors produce no relaxation on their part. Our agriculture and manufactures are now prostrate, and commerce goes next. With England it is safe, not because it can regulate itself, but because it is regulated by a convention, to the observance of which the national faith is pledged. With France we have none. Your ships are now said to be virtually excluded from their ports. This part of your commerce is now to be protected by regulations—by a bill now on your table, laying a duty of eighteen dollars per ton on French shipping. This code, remember, is not the offspring of the age of benighted ignorance, prejudice, or exploded theories, or of the man against whom all Europe combined; but in 1817, by the Government which has been restored by a common struggle, existing in all the effulgence of the light which has been shed on the subject by their own and English writers on political economy, who are not regarded by the Governments where they live; whose books are for exportation, not for home consumption, and now for sale in your lobby, to enlighten you on the merits of this bill. It is a matter of much regret to me to find their opinions quoted with respect here, when they are disregarded where they are known. There is no country but this that studiously leaves her great concerns to regulate themselves. They are all guarded and preserved by regulations of the most rigorous kind. Yet it seems to be expected that, when our establishments are obliged to contend with those of other countries, the latter, aided by all the force and influence of public opinion and legislation, ours can succeed against this unequal competition, the neglect of Government and public prejudice. If the nations with whom we vie would adopt the same maxims, then the industry of the country would protect itself. All that is asked is to meet regulation by regulation, and thus make the competition fair and equal. Apply to their products the same rule that they apply to ours; if they tax our raw materials, tax their manufactures to the encouragement of ours; if they exclude our provisions, exclude their products; let our legislation keep pace with theirs; then our industry will be protected, foreign nations will be compelled to observe, practically, the rule which they discard from their code, but press into ours—"let things regulate themselves." I shall be satisfied with any course if it is uniform. No regulation, or regulation against regulation. If these views, or any of them, are correct, it will not be thought unreasonable that the committee have recommended an additional duty on cotton and woollens of eight per cent.; it is not so much a protecting as a countervailing duty, to counteract the new duties imposed in France and England on our cotton and wool. Had these duties existed, or been known at the time of forming our present tariff, it is but reasonable to believe that the duty would have been higher. The proposed addition is certainly moderate, and consistent with every principle of national interest. The minimum has not been changed. It is proper here to remark that, by estimating all cotton goods to have cost twenty-five cents a yard, and assessing the duty on that sum, the coarser cottons of India have been excluded; and I beg the House not to lose sight of one fact, which is admitted by all to be true, that coarse domestic cottons are now made cheaper than they were ever imported. The remark is equally true of nails, and every other article of which this country commands the consumption. The domestic competition will

have this effect on every article. This fact ought to quiet the fears of gentlemen who affect to think that the encouragement of domestic industry tends to take from the many a bounty for the benefit of the few. Such has been the case in all other countries—those which exclude the importation of foreign fabrics, always undersell those who leave things to regulate themselves. The experience of nations, for ages, cannot deceive us; it is, at all events, not safe to adopt theories, and reject the lights of history and experience. Let us follow the course which has led other nations to greatness; it will be time to prefer theory to fact, to adopt the dreams of speculative writers, when we shall have discovered that the principles which make others rich will impoverish us; that the path which conducts others to wealth and power will lead us to poverty and colonial dependence. In a word, that if we sell more than we buy, if our income exceeds our expenditure, we are ruined. That, if the farmer buys his goods from those who buy his produce, and gives it a value at home which it has not abroad, he pays a bounty to the manufacturer.

It will be observed that this bill recommends an additional duty on cottons from beyond the Cape of Good Hope, of seven per cent., and of ten on silks. It was done for these reasons: that the countries whence these articles are imported consume none of our raw materials, afford no market for our produce, employ none of the labor, and exhaust the specie of the country. It is but fair that a preference should be given to the fabrics of those nations who receive from us something in return. There was an additional reason why the committee thought it best to make this discrimination. It is a matter of serious complaint that the duties imposed by the French Government on American tonnage have nearly destroyed our commerce with France. It is now said to be cheaper to send a cargo there in a French ship and pay freight, than in one of ours and pay none; the difference of the duties and charges is estimated at about three thousand five hundred dollars a voyage. This is another consequence of the peace in Europe; every nation is now desirous of reclaiming its own commerce, of carrying its own productions, and bringing back the articles it wants. We have had the carrying trade of the world; the protection of our flag was wanted; now every flag protects itself; the commerce of other nations will be increased at the expense of ours. Regulations which are to produce this effect cannot be called hostile or unfriendly; they result from the desire which all Governments ought to feel of protecting their own interest; it is equally vain for us to expect our commerce to be what it has been, as that the nations of Europe will give ours a preference to their own; (these are maxims reserved for our adoption.) How to shape our course of legislation on this subject is a matter of extreme difficulty. Committees of the House have different plans; a system of commercial warfare is recommended, in the hope that France will relax in hers. We have thought it safest to make an appeal, not to her fears, but to her interest; to give her a peace offering by preferring hers to the fabrics of India, rather than to provoke by excluding her ships from our ports. As it affects merely the manufactures of the country, the latter would be the course to be pursued; for if, in the prosecution of this war of legislation, she should exclude our cotton, the raisers of it will join us in creating a market at home. In thus recommending the measure which is opposed to the interest of those for whose exclusive benefit the committee are said to be acting, we hope to avoid the imputation of hostility to commerce. The navigation acts on your table are bold measures, designed to compel the two most powerful nations of Europe to give up their favorite systems of commercial and colonial policy, not the expedients of yesterday or the moment, but settled, matured, and acted on for more than a century; which have entered into all their favorite plans of commercial and naval greatness. In such a contest there is much risked: if these measures produce the desired effect, I shall not be among the last to rejoice; but if they fail, if, instead of saving they destroy your commerce; if, instead of producing a relaxation, they only add rigor to the regulations they are intended to counteract, it shall not be charged on the Committee of Manufactures that it was a part of their system. Had these navigation acts emanated from us, I well know the clamor which would have been excited; as they have come from the Commercial Committee, they will be hailed by the mercantile interests as the means of restoring commerce, and I hope they may prove so; but, having a different opinion, fearful that this measure would recoil upon us, destroying what it was intended to save, we have inserted this feature in the bill. A duty of 25 per cent. is proposed on linen and a minimus of 25 cents. The rate proposed by the Committee of Ways and Means in 1816, was 20; it was fixed at 15. This is one of the most important items of domestic consumption; flax, the raw material, raised in all parts of the country, is not an article of export to any extent; linen is one of the most favored manufactures of England; it pays no excise for home consumption, and the Government pays a custom-house bounty of 25 per cent. (on coarse fabrics) when exported. Woollens and plain cottons receive none; the duty on them, therefore, operates for the double purpose of revenue and a preference of ours over the imported article. But, as to linen, the present duty only operates as a tax on our own consumption, being 10 per cent. less than the British export bounty; affording, contrary to all principles of a wise policy, a decided preference for a foreign manufacture. It is impossible to imagine any sound reason for leaving this most important article so wholly unprotected. In the present tariff, if the committee have erred, it is in not proposing

a still higher rate of duty; on coarse linen it only equals the bounty, and then, so far as respects the competition with our fabrics, makes it duty free; on the finer, it has some small operation as a protecting duty. This increase of duty on linen has caused much complaint. The House will now judge with what reason this bill is called an extravagant one. The other objections, when examined, will be found to have no more foundation than this.

The next clause proposes a duty of 30 per cent. on silk from India, 20 from other places: it now pays 15. No good reason could be discovered for so low a rate; it is an article used mostly by the rich; there is less danger of smuggling than on most others; it is imported only in large and valuable ships, and, if from India, is allowed to be landed only in specified ports. A very intelligent merchant from Boston recommended a duty of 33 per cent. on all kinds from every country alike: there will probably be no objection to the proposed increase. Raw silk is made duty free in this, though in the present tariff it paid the same duty as the manufactured. Printed books are at 35—the same as proposed by Mr. Dallas in 1816; they pay 15 at present. Paper and leather—the raw materials are now at 30; the manufactured article should be higher, as it gives employment to much of the labor and a market for many of the products of the country. If imported for colleges, &c., they are duty free; if for common sale, they are a most important article of consumption, and, like others, should be made at home; if for mere amusement or works of taste, they are fair subjects of revenue; none can better afford to pay taxes than men of leisure and wealth. If any gentleman thinks a discrimination ought to be made so as to impose a lower rate of duty on works of science and literature, there will be no objection. The other items in this clause are generally at 35 per cent.—the same as recommended by Mr. Dallas—and in the present tariff are rated at 30. The House will thus perceive that on articles paying an ad valorem duty, the proposed increase is generally from 5 to 10 per cent. If the only protection offered by this bill to the national industry consisted in the mere rate of duties, they will be found not to come up to what are generally called *protecting*, but would be justified for the mere purpose of *revenue*. The committee were sensible that if all the protection necessary was in the imposition of high duties, the cry of extravagance and smuggling might defeat their measures. They have thought the object could be better accomplished by adding such provisions to the bill as would effectually secure the collection of the duties imposed, and so to apportion them as to produce not only revenue by the consumption, but be in some measure a discrimination between the foreign and domestic manufacture. In this view we hope that all will concur.

The mode of ascertaining the value of goods on which a duty is to be assessed, has been attended with much difficulty—an almost constant war between the merchants and the officers of the customs, and has been often changed. The original mode of ascertaining the value "at the time and place of importation," prescribed by the act of 1790, was the fairest and most equitable; as an ad valorem duty, it was in fact what it purported to be—so much per cent. on the value. But as a different standard of valuation has long since been adopted, it was thought best not so much to alter as to modify it. The mode proposed in this bill has been pursued; but the committee are not tenacious on this point. There is, however, one feature in this clause which is deemed of infinite importance to the manufacturing interests, and which the House must indulge me with explaining. It is the addition to the valuation of all drawbacks, bounties, premiums, and allowances, which are paid by foreign Governments on exportation, and assessing the ad valorem duty on the aggregate value thus ascertained. It is somewhat singular that our system of imports, which is avowedly for the double purpose of revenue and the protection of our own manufactures, should have overlooked this provision, which is indispensable for the latter. The House will at once perceive that, if the foreign export bounty equals our impost duty on the same article, the duty is only a tax on the consumption of our own citizens; the foreign article comes into the market on the same terms as the domestic; this is fully exemplified in the article of linen. The British Government pay the exporter 25 per cent. bounty; ours, charging the importer 25 per cent. import duty; it thence becomes duty free. At the present duty of 15 per cent. the importer has a clear profit of 10 per cent. after paying our duty. This is certainly left-handed protection to manufactures. Hence it is, that, without inquiry into the cause, we are told you are unreasonable; no duties will satisfy you. The great reason why many of the present ones are incompetent is, that they are checked and rendered unavailing by this artful and masterly system of bounties and drawbacks. It is the true secret by which to account for the immense wealth and power of a nation whose population but little exceeds our own. She is too wise to trust to imposts as the sole source of revenue—commands her own consumption, draws the chief support of her Government by an excise on her manufactures; they afford materials and open new sources of commerce; her system of bounties enables her to undersell other nations in their own ports, while her political economists mislead us by their speculative and ruinous theories. The article of linen fully illustrates her policy. Though her taxes and expenses are enormously oppressive on the people, yet the makers of linen pay none, no excise on their materials or manufacture; to encourage this fabric, which unites the three great interests of agriculture, commerce, and manufactures, she wisely apportions the burdens of her Government so as to leave this unembarrassed. This accounts for the cheapness of the

article at home, and added to the enormous bounty on the export, gives the true reason for underselling us. Let the British abolish this system, let an article pay the same price for home consumption as for exportation, it will then be seen there is not much difference between manufacturing here and there. One article pays an enormous excise, another none; let them be equalized, and neither have an export bounty, in the aggregate it will be found that we could meet them in market, if not without any, with a small rate of protecting duty. Let cottons, woollens, and linens, pay the same excise as glass, beer, and spirits, and cost to the consumer in this country as much as they do in England, you would be called on for little further protection to our industry. The manufacture of these articles pays no part of the expenses of their Government, is burdened with no taxes, because they are the sources of their greatness, the machinery by which they draw to themselves the resources of all nations who purchase them; retaining us, their commercial, naval, and political rivals, in a state of colonial vassalage. It would be right and fair to aim at once at this system, by adding to the ad valorem a specific duty equal to the bounty paid, and drawback of excise allowed on the exportation. Then our duties might be called protecting ones, and be said to afford sufficient protection to our manufactures; then the competition would be, on national and individual grounds, a fair one; but the committee, aware that this is the first attempt to introduce such a principle into our code, that it would not be prudent to attempt too much at once, only propose to consider the bounty and drawback as a part of the original cost on which the duty is to be assessed. To exemplify this—on linen a duty of 25 per cent. would only counteract the bounty; we recommend the addition of only one-fourth of that amount. It is not to introduce a war of legislation, but in some measure to countervail the association of their system; increased duties will be imperative when they are evaded by increased bounties.

I hope these principles will meet the approbation of the House; if they do not, all our laws will be vain; we had better say at once to those who want protection, "let things regulate themselves." If it is proper to act at all, we must act efficiently; the interests of our country are assailed by an enemy deep in his designs, persevering in their execution, governed by a spirit ever awake and watchful, deterred by no opposition, subdued by no difficulties—the wisdom and the resources of a mighty empire directed to one great object, the supply of foreign nations with the articles of consumption. Great as she is, we can meet her in open war, can beat her on the land, the water, and in the Cabinet, but succumb in legislation; become the dupes of her policy, quietly indifferent to the exhaustion of our resources, which flow to her in one constant increasing current. Our dependence on her almost daily increasing, she exulting in the successful operations of her policy, relieved from the expense of governing us, enjoying all the benefits we could afford her as colonics.

When other interests are endangered by foreign powers or regulation, you are not backward in resisting them at the risk of a war; if a ship or cargo is seized, a seaman, native or naturalized, impressed, or discriminating duties imposed on tonnage, you do not leave things to "regulate themselves;" every thing is protected, every thing defended, but manufactures—these alone are unworthy of national protection. Decrees and orders in council that embarrass commerce are not suffered to operate unmolested, but a system of bounties and drawbacks, destructive not only of interests equally important, but in their consequences involving all in one common destruction, are practically opposed only by the favorite maxim, leave us alone, let them regulate themselves. I hope we shall extend it to all, or be consistent and apply it to none. We are independent in name, have the powers of self-government, but tamely content ourselves with being dependent on our rival for articles of necessity and the means of defence. We cannot clothe or arm our soldiers, build or equip a navy, without procuring from England the means. National pride and honor ought to revolt at the degrading reflection. I hope to see the day when, in full command of our consumption and means of defence, our resources retained at home, our great interests safe from foreign competition, we shall be in fact, as well as in name, free and independent States. This consummation will not be brought about by folding our arms, and leaving the industry of our country to regulate itself. It was not thus that, in the first Punic war, you emerged from colonial dependence; that, in the second, you successfully defended your dearest national rights. Before we can be what our resources enable us to attain, you must wage the third Punic war, not of arms, but of legislation; assail our rival where she is vulnerable, in the source of our greatest danger; her systems of bounties, drawbacks, and premiums, and in her manufactures, where the Congress of 1774 assailed her; go at least as far as self-defence will authorize—protect our own.

The bill proposes an additional duty on hemp of twenty dollars per ton; it was deemed necessary that, for an article of the first necessity, without which we could neither build nor equip a ship, we should not be dependent, as we now are, for the supply on foreign nations. In case of a war, all our naval preparations might be suspended until it could be produced here. It is so essential for national defence, that we must command enough for our own consumption. Viewed as an agricultural production, which was formerly raised in great quantities in the Western States, but which has been destroyed by foreign competition, or as a manufacture, it equally deserves protection; at a time when our provisions, excluded from foreign

markets, do not command a price which pays the expense of cultivation. When the agriculture of the country is as depressed as its manufactures, it needs at least so much protection as to enable it to compete with foreign productions. These reasons, it is hoped, will exempt the duty on this item, from the charge of hostility to agriculture. This article now pays a duty of thirty dollars a ton, the wholesale price of which is two hundred and forty dollars, equal to twelve and a half per cent. ad valorem; the proposed increase will be twenty-one per cent. If considered as a manufactured article, essential for consumption and defence, it is hoped that the propriety of the increased duty will be apparent, as it can be raised to an amount far beyond the demand; the domestic competition will make the increased price on the imported article but temporary. The same apply to the additional duty on cotton, and the further one, which must meet with general assent, that, if the manufacturers of cotton supply the country with their fabrics, they ought to use our own raw material, and not import it from India. The cotton planters must not indulge in fancied security. In 1817, the foreign cotton imported and consumed in the United States was 1,700,000 pounds; in 1818, 4,000,000; in 1819, it amounted to 6,700,000; when they find it thus increasing, and France and England imposing high duties on its importation, they ought to be awakened to the necessity of at least securing the domestic market, not trusting entirely to the foreign. The day may not be very distant, when they will find from experience, that their favorite maxim "of let us alone," will apply as little to agriculture as it now does practically to commerce.

I now come to two items on which the House will not only expect, but require me to say something—glass and iron; one infinitely interesting to the district, the other to the State I represent. It is best not to mince matters, but to speak plainly. This has been called a Pittsburg, a cut-glass bill, local, partial in its operations; and I have been charged with framing it from interested motives. Gentlemen had better be cautious how they use the word Pittsburg as a name of reproach; it may be like the term whig—one of pride, and not of disgrace. I tell the House frankly, that I have not lost sight of the interest of Pittsburg, and would never perjure myself if I had; but the charges shall be met plainly, and if you are not convinced that the interests of that place are identified with the nation; that cut-class can be defended on national grounds, then I agree that Pittsburg, its Representative, its favorite manufacture, and the tariff, may go together. I will rest the whole bill on this item, and freely admit that the increase of duty on glass, plain, not cut, is among the greatest proposed. In selecting articles worthy of national protection, none are more eminently deserving of it than those, the raw materials of which are of no value for exportation; the conversion of which into articles for use, produces something out of nothing—turns into manufactures of the greatest value and beauty the worthless produce of the earth—furnishes a market for the productions of the farmer—gives employment not only to laboring men, but boys who would otherwise contract habits of idleness and vice. The foreign material bears to the manufactured article the proportion of twenty-five cents to one hundred dollars; the rest is the product of our own soil: small quantities of ashes, and lead, the principal material—sand, which is fit for no other purpose, not even to make mortar—stone coal, the machinery. In the days of our prosperity we have made to the amount of a quarter of a million of dollars worth in a year. It was so much money extracted from the bowels of the earth by the labor of hundreds, adding to the wealth and comfort of all within the sphere of its action. Now we make, I may say, none. Will gentlemen tell me who has profited by the change—the farmer, the laborer, our country, or the foreign manufacturer? Plain glass now pays an impost duty of twenty per centum; it is proposed to raise it, and make it specific, ten cents a pound. In England the impost duty amounts to a prohibition; made there, it pays for home consumption an excise of £4 18s. sterling on the 100 weight—on exportation there is a drawback of the excise, and a custom bounty of one pound five shillings sterling, making in all six pounds three shillings, equal to twenty-eight cents a pound between the price to the consumer in England and here. The custom-house bounty alone amounts to near six cents a pound; and from this document, taken from the custom-house in Boston, it appears that, in an invoice amounting to one hundred and twenty-nine pounds in value, the British bounty amounts to one hundred and twenty dollars, our import duty of twenty per cent. to one hundred and fourteen, leaving a clear profit of six dollars. With the addition of the excise drawback on an invoice of five hundred and fifty pounds sterling, the importer, after paying all export duties, freight, insurance, commission, and all charges, makes a clear profit of fifty-one pounds. Has not this article peculiar claims on us for protection? The present duty is a mere tax on the consumer; it operates as no discrimination between ours and the industry of other foreign nations, but leaves it to struggle against the effects of a positive premium on importation. The proposed increase will not, as a protecting duty, amount to more than twenty per cent. ad valorem; on cut glass it is only proposed to add five per cent.; the duty is now thirty. I am aware of objections to the duty on plain glass, and am sorry to find them come from manufacturers, glass cutters, not makers, but importers of plain glass, who are not satisfied with thirty per cent. on cut glass, and represent plain as a raw material, which ought to be duty free. In Pittsburg it is both made and cut, and the House will judge who is most actuated by national principles, which plan adds most to the sum of national wealth, industry, and resources. Gentlemen are

mistaken in supposing mine an iron making—it is an iron buying, iron consuming district. The time has been when six thousand tons were purchased annually, not one of which was made in the district; but to the State of Pennsylvania it is of the utmost importance; it is her staple manufacture; to the nation the all essential article for private consumption and public defence. It ought to be less interesting to us, whether it requires protection, whether the establishments for its manufacture are declining or prosperous, we can and must supply ourselves. Every part of the Union abounds with the raw material; it is perfectly worthless for all other purposes—not fit for roads. The working of it not only employs much of the labor, but furnishes a market for much of the produce of our soil. These good effects are not confined to a small space. An instance of this occurs in the fact that the iron works in the interior of our State are supplied with bacon from Kentucky. The remark is true of this, as of all other manufactures, that the farmer is among those who derive the most profit from their success. It is a matter of most perfect astonishment that so important an article should have been not only so perfectly and wantonly abandoned by the present tariff, but pointedly selected for reprobation by a strange policy, which, whilst it raised the duties on most other articles, reduced that on iron nearly one hundred per cent. From 1804 until 1815, it was at seventeen and a half per cent., and until 1816, at fifteen—a duty which might have been saved these interesting establishments, thus apparently destroyed by design. Pigs and castings, in 1816, paid fifteen per cent. ad valorem; bar iron nine dollars per ton, equal to, say nine per cent. ad valorem; in 1818, the duties were increased to fifty cents a hundred on pigs, seventy-five on castings and bar iron. In this House it was raised to twenty dollars a ton by a majority of forty-seven, but reduced in the Senate to fifteen. Had the duty been a proportionate one in 1816, a rate lower than the one now proposed would have been sufficient to have insured a domestic supply; but the reports of the Treasury present us with facts which call for immediate and efficient interference. In 1818, the importation of bar iron exceeded sixteen thousand tons; in 1819, it amounted to near twenty thousand. The decrease of ad valorem importations in this year has exceeded $19,000,000, while the increase of bar iron has been near four thousand tons. Comparing it with cotton, there are many more national reasons for its protection: the materials of one can be exported, but the other cannot; we send out of the country near $2,000,000 annually, for an article we could make at home, and out of materials perfectly worthless in themselves. The rate of duty is not unreasonable in itself, or disproportionate to other items in this bill or the old tariff. On the first of this month the wholesale price of it was, according to the New York and Philadelphia prices current, from one hundred to one hundred and ten dollars a ton. Calculating on the price at the place of importation, the fairest mode of fixing an ad valorem duty, it would be only twenty-five per cent., the same as on cottons and woollens now, and eight per cent less than is proposed—five less than on leather and paper, in the present, and ten less than is proposed in this bill on the former. Considering it as an article abandoned in the former tariff—that what will restore the declining will not reanimate the dead—that, in the embarrassment and distress of the last year, the importations have rapidly increased, while others diminish, I confidently hope that, in affording to this a protection equal to other articles, no objection will or can be made by those who profess to be friendly to the system.

Iron is certainly an article of necessity, but not more so than clothing. It is called a raw material; we would as soon apply this term to a ball of cotton yarn or a piece of broadcloth. This word raw material is strangely misunderstood. The glass-cutter calls plain glass; the iron-founder pigs; the rope-maker hemp and flax; the copper-smith and brazier brass and copper in sheets and still bottoms, raw materials; while the makers of these articles call them manufactures, and petition for protection. I believe the safer rule is to consider that which is taken from the earth as the raw material, and every change in its form or value, by labor, as a manufacture, equally entitled to encouragement. It is certainly true policy to afford it to every thing which can be made at home, especially when the material can never become an article of export; the extent of the protection to be regulated by the amount of importation—the deficiency of revenue supplied by an excise on the manufacture protected. The increased duty on molasses has excited much opposition and some feeling of those who seem to consider it partial and oppressive. I must ask a candid review of the principle on which this bill has been framed, the situation in which the committee has been placed, and, with an assurance that no feelings of mine can be gratified by bearing hard on my native country, beg them to look at this item on national grounds. Pressed with petitions from every class of manufactures, praying for high duties on foreign articles which interfered with theirs; sensible that something ought to be done, yet beset with difficulties on all sides, unaided and alone, we were thrown on a forlorn hope. A partial, local system would have insured its own defeat; a general one might impair the revenue. To avoid that, to shape our course to meet the interests of a nation so widely extended as this, one might almost say twenty-two different nations, divided at least into great sections, some engaged almost exclusively in agriculture, some in commercial and manufacturing pursuits, and some in all, was attended with uncommon trouble. We are not disappointed in finding other motives attributed to us, but disclaimed,

which are not founded on the general principles avowed by us. In proposing increased duties on the various articles in this bill, there seemed few, if any, on which so many reasons could be brought to bear. The article is bulky, cannot be smuggled, and aids the revenue. The transportation of it from the South employs as much shipping as from the West Indies. It cannot injure commerce; still less so, if you adopt the navigation act which stops the intercourse with the British islands. View it as a produce of the soil or a manufacture, it is as much entitled to protection as any other. This bill tends to essentially aid the manufactures of the Northern and Middle States; it is but fair that they should exchange them for the protections of the South; buy from their customers, their friends and countrymen. As an article of domestic consumption, it is not of much importance; to a family which consumes twenty gallons in a year, the increased duty is one dollar. The wages of the child employed in a factory put in operation by this bill, which would otherwise be idle, would pay it in two days. If distilled, and the spirits exported, there is a drawback of the duty; if for home consumption, the fairness of the duty is at once apparent.

The present duty on a gallon of the lowest proof rum is 42 cents; if distilled from molasses, it now pays 7½; at the proposed rate, 15; there can be no rational reason for this great difference, when an article of consumption is made from a foreign material which can be produced at home. If the domestic product is encouraged, the spirit distilled is duty free. With these strong reasons, the committee could not overlook this article; my mind is not better satisfied with any one in the bill. We could not, with any justice to ourselves, recommend to the House a system which should not embrace, as far as practicable, the interest of all alike; it is in vain to expect the concurrence of such a body as this to any measure of partial operation. Take any one item in this bill, some part of the country will object to it, and if confined to one alone, there would be a majority against every one.

Gentlemen must look to the whole, and not confine their inquiries to what bears hard on sectional interest; extend them to the benefits derived; viewed in this light, the balance will not be found against the part of the country from which the opposition to this duty principally comes. An increased duty of five cents a bushel is proposed on salt; most of the reasons which apply to others will to this article, but there are some which do so exclusively; if it is at all sound policy to command the consumption of our articles of necessity, it is emphatically so of this, which can be made anywhere, and for which, in a cessation of commercial intercourse, a most enormous price is imposed. It is a manufacture, the raw material of which is the ocean, the principal machinery the fire: nature does the greatest part of the labor. It is an important item of revenue. The present price in the interior is from one dollar to one dollar and fifty cents per bushel; on the sea-coast, say 70 cents; it is said that such a duty should be laid as may tend in some measure to equalize the cost to the consumer.* The duty on spirits is not altered; it is an important source of revenue, and cannot be spared; the present rate is high; the committee wished to have increased it to prohibition; but it was not in their province to submit an excuse to supply the deficit of revenue. We well know that to take, in one item, 2,500,000 dollars from an already exhausted treasury, would destroy the whole bill; yet I feel authorized to say that none would more cheerfully concur in the prohibition of foreign spirits, and an excise on domestic, than the Committee of Manufactures. It may be proper here to observe, that that committee did not act on the items in the bill printed in italics, except brown sugar and molasses; this list was furnished to us, with a view to revenue, by a gentleman whose situation brought that subject under his consideration; for any other purpose we have no anxiety to retain them.

The fourth section allows a drawback of the duty on tin and copper when made up and exported; this is a new feature in our system, but deemed necessary for the double purpose of aiding the manufactures and commerce of the country. It would have been extended to other articles, but it was thought better not to make the bill too complicated, or to go too much into detail. The foundation once laid, it can be built on hereafter. The manufacture of these articles for the West India market, would be a source of employment to our labor, and profit to the employer, if enabled to compete with the same articles made and imported by others. With a duty of twenty per cent. our workmen would be excluded; with this drawback, they come in on equal terms. These articles present the commencement of a system which we must some day adopt, and which will make the foundation of our prosperity unshaken. It consists in imposing such an import duty as will secure us our home consumption; an excise on consumption, (for revenue;) on the exportation, a drawback of excise; thus making the manufacture of one article exemplify the policy and all the great objects of Government. The remainder of the bill, except the 9th and 10th sections, is copied from the present law; those sections have been inserted with the sole view of guarding against frauds which exist to a very great extent, and which, if not checked, will completely counteract principles of vital importance to the system we have recommended. Fears have been entertained that the 10th section will be injurious to the fair commerce of the country. It is not so intended, and can be so modified as to secure the objects of the committee, without

* The bounties on the fisheries were increased by an amendment to the bill, 25 per cent., on account of the increased duty on salt.

injuring an interest equally worthy of national protection as the one I am advocating. If it cannot, I will consent to strike it out, for I am no enemy to commerce.* This is not the time to make professions; they will not be believed till the excitement occasioned by this and the other bills reported by the committee shall have subsided; when they are calmly examined, there will be found no evidence of a disposition to protect one at the expense of the other great interests of the nation: all are alike depressed, presenting equal claims on a Government designed for the common benefit; struggling against foreign competition and regulations; all parts of the country require your protection. The committee, adopting the opinion of the Treasury, that this was the proper time to effect a change in our internal relations, have not, in recommending this measure, overlooked these interests. It makes ample provision for revenue; if the imports continue the same as in 1818, the increased duties add $5,800,000. It must be matter of conjecture, how far the diminished importation will equal or exceed the increased duties; if the system of imports is alone to be relied on, if you will resort to no other, it is your duty to make the most of it; not to attempt to support it by loans and taking the Sinking Fund, as proposed by the Committee of Ways and Means. If you will cling to it, I hope you will not reject this bill because it aids manufactures as well as revenue; that those who are so sensitive on the state of the Treasury, and object to this, will propose a better mode of apportioning the burdens on the consumer. Pass this bill, reduce the credits of the custom-house, impose a duty on auction sales—you want no loan; the cry of revenue will be hushed by a union of those who wish to fill the Treasury and protect our own industry. But we understand each other very well: revenue is one of the alarm bells to defeat this bill; those who raise it, well know, that for the present it makes ample provision, but that for the future a new system must be adopted; one which must combine the protection of the great interest which they oppose. As it is inevitable, it is better to come to it gradually; if postponed till the voice of the country makes an imperative call, do not blame us if the revulsion is sudden, and the shock violent.

In five short years your impost has diminished from thirty-six millions to sixteen, more than three millions of which is now in suit. Your expenditures are twenty-six millions in a state of peace. It requires no spirit of prophecy to tell that the income will not meet the expenses; you must resort to new means; to internal taxes, to excise. In using these words I will not be misunderstood: by internal taxes I mean not direct ones on land, but on auctions, pleasure carriages, watches, expensive furniture, &c.; in other words, those taxes on the rich and money-making classes of society, which were repealed two years ago, when a temporary overflowing of the Treasury induced you to abandon the original financial system of revenue, and trust alone to imposts. By excise I mean a tax on the domestic manufacture which is protected from foreign competition. Excise has been an odious term, but it will soon be understood and divested of its terrors. To the consumer it makes no difference whether he pays to the merchant two dollars impost on a pair of boots, or the same amount of excise to a shoemaker; to a farmer, whether he pays five dollars impost on his coat, or five dollars excise to the manufacturer. There is, indeed, one difference, and that contains the sum and substance of political economy—he can pay the manufacturer in wool and provisions. The merchant he must pay in money; he must remit it to England; she excludes our produce and raw materials. This illustrates the difference between impost and excise; the first turns the whole attention of the Government to encourage the importation of foreign productions, as the means of imposing a tax on the consumer. If the country commands its own consumption, importation and imposts cease; now every thing becomes subservient to revenue and to commerce, as the means of transporting the instruments of taxation. Such a system necessarily checks, if not destroys, our internal industry. Domestic manufactures paying no tax, the encouragement of foreign, is the inevitable consequence.

Whether this system is beneficial to the nation, is no longer a matter of opinion, but of history. The late war totally destroyed the imposts; you were left without revenue: foreign importation ceasing, the manufactures of the country sprung up and flourished. Amid all the pressure and privations of the war, the people grew rich and were able to pay taxes to the amount of $12,000,000 in one year. How much could they afford to pay now? The peace found the national resources untouched, the nation strong, and the people contented: while the war duties continued, there were no complaints; revenue was abundant: commerce flourished; manufactures prospered; farmers rolled in wealth; not a murmur was heard against taxes; even when you repealed them, there was but one solitary petition on your table praying for the measure. It was most strange, after this experience of the salutary effects of the then state of things, that there should have been a recurrence to the old system, which must be again abandoned on every fluctuation of our commerce and foreign relations, which can never be permanent, but is in its nature temporary; resulting from the chapter of accidents, relied on by no nation but ours, and by us found insufficient by experience. Even at this moment, when our opponents are so alarmed about it, we have made up our minds to vote for a loan after this bill should have been defeated, for fear it will impair this noble and beautiful system of impost. You

* This section was stricken out on the motion of Mr. B.

will, before you adjourn, contradict your declaration, that the system is good, and the revenue sound, by a "be it enacted," and the legislative declarations of the three branches of Government pronounce that it is found wanting. This is no time for concealment; the House will not understand me as attempting to disguise my views on this subject. If national industry is ever to be protected; if we are ever to command our own consumption; the system of revenue must be changed; part impost, part excise. While you rely exclusively on the first, it is in vain to expect that sound measures of national policy can ever be adopted. A temporary check on foreign importation may, for a time, give a favorable turn to the labor of the nation; but, in their recurrence, our establishments must fall. Do nothing, or do something permanent and efficient, so that there may be some assurance that the national industry will not be exposed to abandonment by every varying motion of foreign policy. Restore a confidence now destroyed: bottom your revenue on the manufactures of the country; then both are placed on a foundation which combines the support of the Government with the best interests of the nation.

We are told that this bill will destroy commerce; this is not an unexpected alarm; it was raised when the last tariff was passed; it is equally loud when any measure is proposed which adds a cent or a dollar to a duty on importation. Joined with smuggling we shall always hear the cry repeated, when any measure is proposed not tending to the exclusive benefit of that interest. I had indulged a hope, that, at this time, when the commerce of the country was as prostrate as our manufactures, when both are pressing us for protection from the same dangers, that its friends would have made common cause, and joined in a common struggle for self-preservation. The hope was not a sanguine one; commerce has been too long a pet, the spoiled child of Government, to think there are any other interests worth protecting. The mere creature of legislation, raised to importance by our laws and the expenditure of a great portion of our revenue for its support, commerce has presented herself as the Atlas which supports the Government, the country, and all its great interests; now, it seems, she cannot support herself. Yet, while approaching you in a suppliant posture, praying for a bankrupt law, to save her merchants, navigation acts, her shipping, she still retains the spirit, still thinks that all legislation must be for her benefit; boldly claiming the rights of primogeniture; loudly protesting that any thing done for the other children of the nation is her destruction. While this is commerce, "I am against it;" but if she claims equal protection, or even a double portion in her favor, I will go as far as any man in this House to support the fair trade of the country.

MONDAY, April 24.

Revision of the Tariff.

The House then again resolved itself into a Committee of the Whole, on the bill to regulate the duties on imports.

A motion to strike out the first section of the bill (to reject it) being under consideration—

Mr. TYLER said, that he sincerely mingled his regrets with those which had been repeatedly expressed by others, that this all-important subject should be urged to a decision at this late period. The languor attendant on a long session rarely fails to produce a restlessness and impatience adverse to a full and free investigation. If we arrive, said he, to a precipitate conclusion, one adverse to the best interests of this nation, he meant not that any share of the responsibility should devolve on him. He considered that he had a high duty to discharge, and trusted the House would bear with him while he discharged it.

Some gentlemen have been pleased to consider the bill on the table a mere experiment. We should be cautious, Mr. Chairman, how we adopt experiments of a vague and uncertain character; but more especially ought we to be so, when the two great branches of national industry, commerce and agriculture, are materially interested in that experiment. Shall we make a hasty experiment on our best interests? Shall we precipitately adopt a system from which the most serious and destructive results may arise? I repeat, that great deliberation and reflection are required of us. And, sir, what is the character of the experiment which is about to be made? One which is to give a new direction to the capital and labor of the country. The clamor which has been raised in support of what is called *national industry*, has this for its object and nothing else. This is the inevitable consequence of the bill on your table should you adopt it. Are the present manufacturers in the United States really entitled to your aid? Where is the proof of it? We have asked for the proof, and the chairman of the committee frankly acknowledged that he did not possess it. All classes labor, at this time, under serious embarrassments. The gentleman from Pennsylvania (Mr. BALDWIN) has ascribed these embarrassments to the badness of our present system. Not so, said Mr. T., the causes are plain and obvious. The present extraordinary condition of the world, almost all Christendom being now at peace, is one of the great causes. The demand for the productions of our soil is diminished by the circumstance of the inhabitants of Europe being now permitted to pursue the walks of industry, uninterrupted by the turmoil of war. They are no longer dependent on us for those large supplies which they lately required. There is another cause equally operative, and it is to be found in that hot-bed banking system, which, like the present bill, when introduced, was made to promise us such potent blessings. I repeat, that all classes are greatly oppressed. For one,

I wanted such information as would have enabled me fairly to contrast the condition of the manufacturing with the other interests of the country. I wanted to be informed whether that interest only suffered in the same ratio with the others, and whether its sufferings were produced by similar causes. In the absence of this information, I am left to conclude that it is now deemed expedient to hold out rewards for the purpose of giving a new direction to the capital and labor of the nation.

If gentlemen imagine that by this bill they are securing the permanent interests of the manufacturers; if they believe that this is all which will be required at the hands of the Legislature, they are most grossly deceived. This is but the incipient measure of a system. I venture to predict that, after the lapse of a very few years, we shall be assailed by as urgent petitions as those which have poured in on us at the present session.

What will be the effect of this measure? It proposes a rate of duties sufficiently high to enable our artists to undersell the foreign artists in the markets of this country. For a short time it will have that effect, but it cannot long continue. It adds to the profits of those who at this time have their capitals invested in manufactories; and while other classes will labor under severe pecuniary embarrassments, they will enjoy comparative prosperity. What will be the consequence? Why, sir, there is no principle in political economy more universally true, than that capital will flow into those employments from which it can derive the greatest profits. This bill, then, will have the effect of causing new investitures of capital. Thus a spirit of competition will have been generated, and in the course of a few years, the profits of these capitalists will have settled down to their present level. The supply will always, after a short time, suit itself to the demand, and, from being at first deficient, will often exceed it. Again: The advocates of this system have attempted too much. They have clasped in their embrace too many favorites to yield a permanent benefit to any one. There will exist an inequality of profits in the various branches of manufacturing industry; and this circumstance will aid greatly in producing the result which I have deduced. To simplify my argument, let me present to you a suppositious case. Take the case of the tailor and shoemaker. If the tailor makes a greater profit in his trade, then you will have more tailors than shoemakers; more labor will be employed by the one than the other. The shoemaker, in order to retain his laborers in his employment, will be forced to give higher wages; and the tailor, in order to counteract this effect, will find himself compelled to increase the wages of his laborers. And thus, the competition between them will urge them on to the imposition of high prices on their different fabrics. While the wages of labor are continually advancing, they will find their profits constantly diminishing, and their resort to high prices for their products will resemble the desperate effort of the gambler, whose hopes are all staked on the last throw of the dice. The consequence is inevitable. This bill secures them not. The foreign competitor again enters your market, and again will our ears be deafened with cries for relief.

But, Mr. Chairman, we are promised a home market for our products. Are gentlemen serious when they urge such arguments? Would you add by this bill to the number of consumers in the United States? I speak of the agricultural interest, as it now exists, before sufficient time shall have elapsed to enable the farmer to desert his field, and give a new direction to his labor. I ask, then, if your manufactures shall prosper; if you succeed, as you unquestionably will, in building up large manufacturing establishments, will you add to the number of consumers? Who will be found in them? Men who must be fed whether they are there or elsewhere—laborers. Will this be to furnish a new market? Take the case of large mercantile cities; they would furnish a parallel. By concentrating the population, you concentrate the number of purchasers, but you do not thereby increase their number. Whether your fifty merchants be in a city, or dispersed over the country, they do not lose their character of purchasers. They must, in either event, be fed. So too with the laborers employed in a manufactory. But look to the list of agricultural exports, and tell me how long it will take you to furnish a home market for them? They amounted last year, if I do not mistake, to something like $50,000,000, and this was made up of the portion of product which remained after satisfying the home demand. The proposition, sir, is futile; nay, a perfect mockery. Nor are we to be deceived by the apparent regard which the Committee of Manufactures has evinced in our behalf. The chairman (Mr. BALDWIN) has been pleased to report a duty on cotton and tobacco, imported into this country. Did he really imagine that the members from Georgia and South Carolina were to be entrapped by the first, or the members from Virginia by the last? I feel assured that my honorable friend did not intend to practise a deception upon us. He would spurn with indignation, any such resort. But I ask him seriously to say whether he thinks that the South requires this tax on cotton, or Virginia this tax on tobacco? Look at the list of annual exports of cotton, and tell me if the cotton planter here has any thing to fear from foreign competition? And is it not well known that the Virginia tobacco planter fears no competition on earth? No other tobacco comes into competition with it. France admits none other than that raised in Virginia; and the anxiety of foreign purchasers to obtain our tobacco, is the best evidence of its decided superiority over the similar production of any other country. As well might the gentleman, if he had been legislating for Newcastle, to use a familiar illustration, have laid a high duty on coal thereinto imported.

I think, then, Mr. Chairman, that I have rendered in some measure the effects which will flow from this bill manifest. It will diminish the value of our land; it will shut us out from the foreign market; it cannot substitute a home market, as is erroneously contended; and, finally, it subjects us to a heavy burden of taxation. Is it necessary that I should go on to show its effects on commerce? Agriculture and commerce are twin sisters. You cannot inflict a wound on the one without injuring the other. Our foreign trade, I have already attempted to show, would be greatly and most seriously curtailed. And, sir, when the gentleman excepts from duty copper used for sheathing of ships, he takes care to limit this application of that article by striking a destructive blow at the vessel itself. That noble spirit of enterprise which has heretofore been our chief boast, will be in a great measure destroyed, and your navigation will be confined to your own bays and creeks. Tell me not, then, of the embarrassments which now prevail in this land. Go on with this Chinese system; carry this strange fallacy into effect, and we shall present a contrast as striking, between our present and our then situation, as that which is exhibited in the case of a child who has lost his plaything, and of the man whose house is wrapt in flames, and the fruits of a long life of industry in a moment destroyed.

Mr. STORRS delivered a speech of about an hour's length, in reply.

Mr. GROSS said, that the proposition of the honorable gentleman from Virginia (Mr. TYLER) must have originated in a conviction, on his part, of the impolicy of the bill, considered in relation to the principles upon which it has been framed, and not in a mere dissatisfaction with its details. In the latter case, candor and patriotism would have concurred in pointing the honorable gentleman to a course very different from the one he had adopted. He would have proposed amendments rather than have submitted a motion to destroy the bill. What reasons does he offer to induce us to support his motion? I confess, said Mr. G., that I should think him in favor of the bill, did I take his remarks instead of his motion, as the test of his sentiments. He acknowledges that the general pacification of Europe, and the consequent loss of a market for our agricultural productions, is the cause of the present distress. The honorable gentleman, sir, is perfectly right. We may talk about banks and extravagance as much as we please; but they are not the cause of our misfortunes. They are rather the evidences of our former prosperity. When every thing which our soil produced commanded a high price in the European markets, and when we were the carriers for all nations, we could afford to be extravagant. Industry, sir, simple industry, was sufficient to secure to every individual the necessaries and conveniences of life. The mechanic found abundant employment; the planter and farmer enjoyed a ready market for their produce; and the merchant became wealthy. The case is altered now, sir. The mechanic is without business, the farmer finds no market, and the capitalist, instead of growing rich by the interest of his money, is forced to live upon the principal, unless he choose to fatten on the misfortunes of his neighbors. Can all this, sir, be the effect of luxury? Extravagance makes money change its owners, but does not banish it from a country, if that country be otherwise in a flourishing condition. We must abandon, it is true, our habits of show and parade, in order to accommodate ourselves to our present reduced condition; but if there be no market for the produce of our soil, and no demand for our labor, our efforts will barely enable us to subsist. To arrest the progress of this evil, and to prevent the enormous exportation of specie, it seems to me that we should furnish ourselves with those articles for which we have heretofore sent our money across the Atlantic.

But let us inquire, said Mr. G., what remedy the honorable gentleman proposes for the evils which oppress us. Why, sir, he seems to have discovered a "speck of war" in the European horizon, a little cloud, no bigger at present than a man's hand, but which he devoutly hopes and believes will increase and overshadow the whole eastern continent. Has it indeed, sir, come to this? Are we to confine ourselves exclusively to the cultivation of the soil, even when its produce will not procure us the refuse trash of Europe? Are we to wait in our present situation until a war in Europe shall work our deliverance? The hope of such an event is impious. But suppose it should actually happen, where is our security for its continuance? Must our prosperity forever depend on the misfortunes of Europe? Shall we be condemned to mourn whenever peace shall bless her shores? Where is the Representative who is prepared to leave his country in such a state of vassalage and dependence? We have, sir, at a vast expense of blood and treasure, established and maintained our political independence; but if the present state of things be without remedy, or, if we have not spirit enough to adopt a plan of reform in our internal policy, we may as well renew our allegiance to the British Crown, and save the trouble and expense of governing ourselves.

The honorable gentleman, said Mr. G., seems to concur with the celebrated Dr. Smith, that we ought not to accommodate our pursuits to our circumstances. What else can he mean by warning us not to change the direction of the national capital? The learned doctor informs his readers that "the tailor does not attempt to make his own shoes, but buys them of the shoemaker. The shoemaker does not attempt to make his own clothes, but employs the tailor. The farmer," he continues, "attempts to make neither the one nor the other, but employs those different artificers." And what is the reason which the doctor gives for all this? It is, according to him, because "all these find

it for their interest to employ their whole industry in a way in which they have some advantage over their neighbors, and to purchase with a part of its produce, or, what is the same thing, with the price of a part of it, whatever else they may have occasion for." Will any one deny the correctness of these remarks? Yet, sir, if they be designed as an argument against the present bill, there are not more sophistical and jesuitical sentences in the English language. They are founded on the assumed fact that the tailor, the shoemaker, and the farmer, depend mutually on each other for the particular articles which their industry produces. But let us suppose, for a moment, that the farmer has no longer any "advantage over his neighbor," the tailor, by the cultivation of the soil. Let us take it for granted that he cannot dispose of his provisions; that the shoemaker is supplied from another quarter, and that the tailor supplies himself. Let us imagine, moreover, a very probable case, that, for the want of a market, he cannot purchase, with the price of a part of his produce, the shoes and coats of his neighbors; what shall he do under these circumstances? Shall he remain unclothed and unshod for fear of interfering with Dr. Smith's system of economy? Shall he prefer the cultivation of the soil, naked as he is, which can yield him no profit, to those mechanical arts which will, at least, secure him from the inclemency of the weather, and preserve him from debt?

The honorable gentleman, said Mr. G., informs us that manufacturers are no more depressed than other classes of the community. True, sir; but shall we, for this reason, abandon the country to its fate? Yes, says the honorable gentleman, let every thing regulate itself, and manufactures will gradually be introduced from necessity. I am satisfied, said Mr. G., that they will be established, whether we pass this bill or not; for, by permitting things to take their natural course, whilst every other nation is intermeddling with commercial matters, we are reduced to the necessity of suspending almost entirely our foreign importations. We are compelled to provide a home market for our provisions and raw materials. For my part, sir, I am willing to aid the effects of our foolish policy, while they tend to work their own remedy. The good sense of the community is awake. A spirit of inquiry has gone forth, and the progress of public opinion in favor of a change of policy is not to be arrested; but, if the Government does nothing, years of suffering and embarrassment may pass away before the evil will be completely cured. Let us not permit the distresses of our fellow-citizens to be the sole cause of reformation; the skilful physician follows the indications of nature, and assists all its operations in throwing off the disease. Let us follow the example, and afford a seasonable encouragement to the manufacturing interest, which is now struggling between hope and despair.

But the honorable gentleman, said Mr. G., foresees an excise duty, if we pass this bill. After proving that such will be the result, I cannot see that he will have gained much ground. What has his own system produced? A deficit of five millions, and a yearly decrease of revenue. As to the revenue, the two systems are the same; but in regard to the internal prosperity of the country, the advantage is decidedly in favor of the new plan of economy. The old policy has ruined the revenue by impoverishing the people; the present bill proposes to exclude a portion of foreign commodities, in order to encourage the industry of our own citizens. Let us look back to the late war, and to the measures of Government at its close. At the commencement of the contest we experienced the evils of a want of manufacturing establishments in the most sensible manner; the capitalist began to turn his attention to the subject; but, before a supply could be furnished, the Government was compelled to submit to the disgrace of conniving at a violation of its own laws, and of countenancing smuggling, for the sake of clothing the army. The youth of our establishments, their small number, and the consequent want of competition, caused the high prices for which our manufacturers have been so often reproached. A few years would have remedied the evil. The lesson taught us at that time ought not so soon to have been forgotten. We ought to have learned that it was essential to our independence to be able, at all times, to furnish ourselves with many of the articles which we now import from abroad.

But, on the receipt of the news of peace, the country seemed mad with joy. Without reflecting on the altered situation of Europe, and not considering that our produce could no longer be disposed of in that quarter, Congress formed a tariff on the honorable gentleman's plan. They enacted a treasury tariff, a revenue tariff, without the least regard to the situation of the country. Need I mention the result? The low duties which were imposed brought upon the nation a perfect deluge of foreign articles. Our infant manufacturing establishments were prostrated; but the individual distress of their proprietors was unnoticed amidst the general joy at seeing the National Treasury filled to overflowing. What is the result? This system has operated like an exhilarating poison, which, at first, increased the animal powers, but finally sinks them to the grave. This system has been pursued to the present time. Will any one, at this day, call it a revenue system? It deserves a different title. We have purchased foreign commodities until the country is reduced to the utmost distress. We can purchase them no longer. The revenue has declined, and will continue to decline. Even now we have a bill upon our tables to provide for a part of the Treasury deficit by a loan, and, for the balance, the Lord knows how; and yet the honorable gentleman warns

us against a change of policy, for fear of affecting the revenue; that miserable remnant, I suppose he means, which our blessed revenue system has not destroyed. Can that policy be wise which renders war a blessing? I appeal to the recollection of every member of this House, if the last war, with all its taxes, pressed so heavily on the country as the present peace?

I am well satisfied, said Mr. G., that there is a decided majority in the House who approve of the principles upon which this bill has been framed. They all acknowledge that our policy must be changed. It is evident, however, that certain items of its detail are unsatisfactory to some of its friends. For myself, sir, I can assure the House that no private consideration shall induce me to vote against the passage of the bill. It has a national object in view, and individual considerations should be laid aside. We have heard much wrangling from a quarter whence it should have been least expected. The very people who are most interested in the passage of this bill, and whose demands for the encouragement of their peculiar industry have almost uniformly been complied with, are clamorous about a miserable tax of five cents the gallon on molasses. My immediate constituents, sir, are deeply interested in the proposed increase of duty on bar iron; but I am proud to believe that, should it be stricken out, I should forfeit their confidence by voting against the bill. I trust, sir, that the motion of the honorable gentleman from Virginia will be rejected.

The question was then taken on striking out the first section of the bill, and decided in the negative, 73 votes to 48.

The Committee of the Whole then took up the other bill referred to it, by the title of "A bill regulating the payment of duties on merchandise imported, and for other purposes."

[This bill provides that, from and after a certain date, the duties laid on all goods, wares, and merchandise, imported into the United States, except dyeing drugs, and materials for composing dyes, gum arabic, gum senegal, and all other articles used solely for medicinal purposes, cassia, cinnamon, cloves, chocolate, cocoa, coffee, indigo, mace, molasses, nutmegs, pepper, pimento, salt, ochre, sugar, tea, shall be paid before a permit shall be granted for landing the same, unless entered for exportation or deposited in public store-houses. On the excepted articles, duties not exceeding one hundred dollars in amount to be paid in cash; and, if exceeding that sum, shall be allowed a credit, on one-half for three months, and on the other half for six months—except tea, the duties on which are to be payable, in equal payments, at three, six, and nine months.]

Mr. BALDWIN rose and addressed the Chair as follows:

In commencing its operations, our Government justly deemed it of great importance to give every facility to the commerce of our country. There was then peace in Europe. Commerce was principally in the hands of two nations, whose capital was so abundant that, in Holland, it was said not to be a bad business for a merchant, by his labors and the employment of his money, to realize 6 per cent. In England, an unequivocal evidence of the extent of unemployed capital was, that their 3 per cent. stocks were in the market at 93 per cent. It was no part of the policy of these nations to give aid to commerce by affording credits at the custom-houses, on the importation of goods—it was not necessary. In this country the case was different. The period which immediately succeeded the Revolution, was one of unexampled embarrassment, from which we were just recovering when the Government was organized. There was but little capital in the country. Its commerce was mostly carried on by foreigners, whose superior capital gave them great advantages in their competition with our citizens—it thus became necessary to divert trade from its accustomed channels, by every possible facility. Imposts were the principal source of revenue—merchants the agents to collect from the people. Credits for the duties were allowed them, not only to give time to collect from consumers, but as a means of increasing their capital, by retaining, and having the use of the money, until their bonds became due. In 1789, the credit allowed on goods from the West Indies, was four months; on Madeira wines, twelve months; on all other goods, six months. In 1790, a credit was given on teas from China, of twelve months. In 1795, the credit on goods from the West Indies was altered to three and six months; from Europe to eight, ten, and twelve months. In 1799, a general system was adopted; from the West Indies, half in three, half in six months; salt, nine months; wines, twelve months; from Europe, one-third each in eight, ten, and twelve months; other than from Europe, half in six and one-fourth, each in nine and twelve months; teas, as other goods, or at the option of the importer, to be deposited, and bonds given at two years, and to be sold for the duties, if the bonds were not duly paid. In 1805, all importations from the eastern coast of America, north of the equator, were allowed the same credits as those from the West Indies. In 1818, the credit on such importations was extended to six and nine months; on those from other countries than Europe and the West Indies, (salt, wines, and teas excepted,) to eight, ten, and eighteen months, one-third being payable at each of these periods. No alteration has since been made, so that the credits now are:

On the duties on importations from the West Indies and north of the equator, (excepting Europe,) half in six and half in nine months.

From Europe, one-third in eight, one-third in ten, and one-third in twelve months.

From the East Indies, one-third in eight, one-third in ten, and one-third in eighteen months.

Of wines, twelve months.

Of salt, nine months.

Of teas, one-third in eight, one-third in ten, and one-third in twelve months; or, if deposited, twenty-four months.

While our commerce was struggling to compete with that of other nations, there were good reasons for allowing liberal credits on the duties; but, when the French revolution threw the commerce of the world into our hands; when the capital of foreigners was employed by our merchants, the use of it being amply compensated by the protection of our flag, there would seem to have been no very powerful reasons for taxing the consumers to create or enlarge the capital of merchants; for such is the immediate effect of custom-house credits. It is understood to be the custom of merchants to calculate their profits on the aggregate cost of goods, including charges and duties. The amount of duties is, in effect, a loan from the Government to the merchant, without interest, which becomes a part of his capital, and is as productive as the money he has actually remitted in payment for his goods. It would seem then to be as reasonable that he should furnish this, as that he should furnish the other portion of his capital. When the credit on the duties exceeds that allowed on sales to retailers, it affords to the importer the further advantage of the active use of the money which has been drawn from those who really pay the duties.

It would have seemed more consistent with general principles, if, in the infancy and during the hard struggle of our commerce, liberal credits had been given, and they had been gradually diminished, as there was less occasion for them. The reverse, however, has been our policy. Though, during the period of short credits, our commerce was constantly and rapidly increasing, and not content with a fair division with other nations, was attaining a monopoly, yet the credits were extended in proportion as the real necessity for them diminished. Even so late as 1818, when our East India merchants had acquired vast wealth, abundant capital, and were without foreign competition, their credits were in part extended to eighteen months—a longer period, I will venture to say, than they give their customers. The consequence of this system is, that, by selling at auction for cash, or on short credit, for notes which can be discounted at bank, the amount of duties thus loaned may be invested in a new voyage. Generally one, and often two adventures, may be completed before the duties on the first are due.

We have lately heard much of the favorite commercial maxim: "Let us alone, let trade regulate itself." The practical application of this maxim is developed by this custom-house system. Our legislation upon this subject has been uniformly progressive. Regulation has indeed followed regulation; but it has been to give additional facilities to commerce. The credits at the custom-house have been often altered; but in every case they have increased. Our statute book does not contain a solitary instance of a credit diminished. This system having been coeval with our Government, followed up by a uniform series of acts for thirty years, is now viewed as the natural and established order of things; as a matter of right, not of favor. Extending the credit means, "let us alone;" to reduce it to the old terms is to destroy the commerce of the country. It is worth while to look at the practical illustration of this rule in the act of 1818, the last law on the subject, passed on the last day of the session. The East India credits were extended to eighteen months, in the last line of the last clause in the last section of a bill for the deposit of wines and spirits, and for other purposes. It might be well to inquire into the evidence on which this measure was reported. It is at least to be hoped that, from whatever other quarter it may come, the doctrine of "letting things regulate themselves" will not again be heard from those who owe so much to regulation.

In speaking thus plainly of these credits, I must not be understood as objecting so much to their expediency at the time of their adoption, as to their being continued and enlarged after the reasons for which they were granted have ceased, and when their effects have become injurious to all parts of the country. They were granted for the benefit of American commerce, and as facilities to American merchants; but they now operate to the destruction of the one and the impoverishment of the other. From a careful examination of the weekly abstracts of merchandise entered at the custom-house in New York in the year 1819, it appears that there were entered 32,958 packages of dry goods, of which 24,659 were on foreign, and 8,299 only on American account. Thus, in the proud emporium of our commerce, where capital is abundant, and in vain seeking profitable employment, three-fourths of the importations appear to be on foreign account, the sales of which, for the most part, are by auction. This is no forced, but the plain and evident effect of obvious causes. The nations of Europe, to whom England allied herself, and whom she subsidized to destroy the continental system, having accomplished the object of putting down its author, retained or readopted the system itself. That nation, who fought the common battles of herself and other nations, and who paid them for fighting for themselves, now finds her manufactures mostly excluded from the Continent; her merchants and manufacturers seeking rather for some market than for a good one. Few nations will buy from them at all; none but this will furnish them with a capital without interest on a long credit. Other nations regulate this matter; they require prompt payment of duties, or deposit of goods. We leave things to regulate themselves, and allow foreigners to avail themselves of three-fourths of the benefits of our credits. Depressed at home for the want of a market as well as of capital they eagerly look to us as affording

both. During the wars in Europe they could not improve these facilities; but now they hold out inducements and offer temptations which will lead to a great increase, and a final monopoly of our trade in such hands. An ordinary trading voyage to England may be completed, the goods sold by means of auctions, notes discounted, and the proceeds ready to be remitted back in four months. By the Liverpool packets much less time will suffice. But, allowing three operations in a year, I find that our custom-house credits on cottons and woollens will double the capital employed in the first year, and increase 135 per centum at the end of the second year. In this mode a loan, perpetual and increasing in a steady ratio, is made by our Government to the foreign merchant; who, while he thus obtains it without interest, is enabled to continue his operations; and, to avoid the notary, he looks more to his credit than to his profits, and will continue his business though it may be a losing one. What to the American merchant would be a losing is to him a gainful trade. The American importer becomes a mere caterer to the foreign manufacturer. The orders sent out by him indicate the quantity, kind, and quality of goods required at our different ports. The manufacturer, thus advised of the demand, sends similar articles to the same market. If, after deducting charges, he can receive in New York the price at his manufactory, he has the usual profit and an increase to his capital by the custom-house credits. The American merchant pays the manufacturer his price in England, and must sell here at an advance, or decline business. It is therefore not a matter of surprise that so large a proportion of importations should be on foreign account, but rather that there should be any other.

This at once accounts for the cries of distress which assail us from the commercial cities, imploring us to abolish credits on imports, and impose heavy duties on auction sales. The operation of these two causes on all the great interests of the country, shows their intimate connection, their mutual dependence. I hope all will unite in affording a remedy. It will be truly unexpected if gentlemen shall be found willing to have the revenue, commerce, and agriculture, abandoned to their fate, because the only measure which can save them will likewise benefit manufactures. The occasion is now fairly presented to the House. This bill has been called for from the seaports. It has been reported, published in the counting-rooms of merchants for three months, and not a solitary petition against it from individuals has been presented. Called for by all, and I may almost say opposed by no part of the country, necessary to correct existing, not fancied, evils; evils which are felt, and threaten to be greater in future, I cannot but feel some confidence that even the opponents of the tariff will be in favor of this bill. For the revenue it is almost indispensable, as well for security as for convenience. On the first of January of the present year the amount of revenue bonds actually in suit exceeded three millions of dollars. On the first of this month (April) it was considerably increased—say to $3,120,000. On the first of January, 1819, it was only $1,740,000.

Mr. SILSBEE of Massachusetts, addressed the committee as follows—

Mr. Chairman: Being an inhabitant of a commercial district of the United States, I feel compelled, by a sense of duty to my constituents, to make a few remarks upon the bill now under consideration.

It seems to be generally admitted, sir, that every interest of the country is depressed at this time; and what does this bill propose—measures for the relief and benefit of all? No, sir; its object seems to be, to impose new restrictions and additional burdens upon that interest which, at this moment, is more depressed than any other. I mean the commercial and navigating interest. In the course of the past year a loss has been sustained by the merchants of this country, of at least twenty-five per cent. of the whole capital employed in foreign trade, and the prospects of the present year are not more flattering than those of the past. There will not be so much capital employed this year as there was last, because there is not so much to employ; but in that which is employed the loss (judging from present appearances) will be as great, or greater, than it was the last year. If gentlemen have attended to the memorials which have been read in this House, from the manufacturing interest, they will have learnt from them something of the present state of our navigation and commerce. We have been informed by these memorials that our ships are rotting at the wharves; that they are not worth half their cost; that a large portion of the merchants are already bankrupts; and that others are almost daily added to the list. If this be true, (and no one who has recently visited our seaports will be inclined to doubt it,)—if this be true, I say, is it wise, or is it just, further to depress the interest at this time?

The bill under consideration proposes the abolition of the present system of credits on revenue bonds, and the adoption of an entire new system. The present system has been in operation, with some alterations, from the commencement of the present Government. By the act of the 4th of August, 1790, the credits for duties on imports were fixed as follows: On goods from the West Indies, at four months; on teas from China, at twelve months; on Madeira wine, at twelve months; on all other goods, at six months. At this time sales of goods were generally made for cash, or at very short credits; but, as the business of the country increased, longer credits to purchasers became usual; and it cannot be doubted that it was the encouragement of this increase of trade which induced the Government to extend these credits, as they have done at different periods since 1790.

By the act of May, 1792, the credit for duties on salt was fixed at nine months; on other West India goods, at four months; on all other goods, (except wines and teas,) half in six, a quarter in nine, and a quarter in twelve months. By the act of January 29th, 1795, the credit on importations from the West Indies was extended to three and six months; and on importations from Europe, the credit was fixed at eight, ten, and twelve months; one-third cash. By the act of the 3d of March, 1799, the credits were fixed as follows: on West India products, (except salt,) half in three, and half in six months; on salt, in nine months; on wines, in twelve months; on teas from China or Europe, the same as other goods from those countries, unless deposited in Government stores, in which case the credit not to exceed two years; on articles from Europe, one-third in eight, one-third in ten, and one-third in twelve months; on all goods from any other place than Europe and the West Indies, (other than salt, teas, and wines,) half in six, a quarter in nine, and a quarter in twelve months. These credits have not been changed since March, 1799, except that, by the act of April 20, 1818, the credit on West India products was extended from three and six, to five and nine months; and on articles from the East Indies, South America, &c., from half in six, quarter in nine, and a quarter in twelve months, to one-third in eight, one-third in ten, and one-third in eighteen months.

These credits are given on bonds, with one or more sureties, to the satisfaction of the collector, in double the amount of duties; or, in lieu of the sureties, the collector may accept a deposit of so much of the goods as shall, in his opinion, be a sufficient security for the amount of the duties, (not the whole goods, as is required by the bill now under consideration,) which deposit is to be held till the bonds become due, at which time, if the bonds are not previously paid, the goods are to be sold, and the surplus, after paying the bonds and charges, to be paid over to the importer of the goods. This is the substance of our present system of credits, which to this time has been found as satisfactory and sufficient as it is simple.

The system proposed by the bill under consideration, if I understand it, is this: On the arrival of goods liable to the payment of duty, the importer may elect whether to enter them for exportation or for consumption; if he enters them for exportation, he is to give bond, with sufficient sureties, to the whole amount of the goods, that they shall be exported, and not relanded in the United States. It is, however, provided that the importer may, subsequently, re-enter his goods for consumption; but this indulgence is extended only to three months from the date of importation, and on condition that the duties are all paid before the expiration of that time. If the goods are, at the time of importation, entered for consumption, and are such as named, as excepted, in the first section of the bill, they are to be entitled to a credit on one-half the amount for three months, and on the other half for six months, except teas, on which the credit is to be three, six, and nine months; one-third cash. On all other goods, of every description, the duty is to be paid in cash; or, in default of such payment, the goods (not merely enough to secure the payment of the duty, as under the present system, but the whole goods) are to be deposited in stores selected by the collector, and retained in his custody for six months, when, if the duty is not previously paid, so much of the goods are to be sold as will pay the duty and charges. Now, sir, if the Government had large and convenient warehouses established in all our seaports, as is the case in most parts of Europe, to which access could readily be had during the usual hours of business, this might not be considered so great an inconvenience; but this is not the case—and, should importers generally store their goods instead of paying the duties, almost every store in our commercial towns would be converted into a government store, and unless the Government should forthwith appoint a host of storekeepers, it will be found extremely difficult, if not impracticable, to get along with this part of this new system. It will at least be found so inconvenient and perplexing that few, if any, who can pay the duties on importation, will submit to it. I must, therefore, consider the duties on all the non-excepted articles as liable to cash payment.

The revenue from the customs, in 1818, (the last year for which returns have been made,) was $21,828,451; of which $5,410,320 accrued on articles which are to be entitled to a credit, according to the provisions of this bill; and $16,631,852 were derived from articles which are to be liable to cash payment of duties. So that less than one-fourth part of the amount of duties are to have the benefit of a credit of three and six months, and more than three-quarters of the duties are to be paid in cash.

Sir, the merchants of the United States are at this time, and at all times, under bonds to the Government for the payment of about twenty millions of dollars within a year. Should this bill pass, and not lessen the amount of duties that would otherwise accrue, it will require from the merchants a further payment of ten or fifteen millions more, making thirty to thirty-five millions within a year from the time this bill takes effect.

Now, can the commercial interest bear an additional assessment of fifty to seventy-five per cent., at a time when they find it all but impossible to comply with their present engagements? And if such requisition could be complied with, would any interest of the country, either public or private, be benefited by withdrawing from circulation such an additional sum, when a considerable portion of it, at least, would lie dormant in the Treasury, or in the bank, for the greater part of a year? It would, to be sure, give us an overflowing Treasury for

the first year, but a very impoverished one for several succeeding years.

I have heard it said, on this floor, that credits for duties are not allowed by any of the commercial nations of Europe. This, if apparently, is not really, the case. Entrepots, or public warehouses, are established, I believe, by every commercial nation in Europe; certainly by most of them, and most goods may remain in entrepot until they are sold for consumption, before the payment of duties is required; even goods prohibited for consumption may remain in depot until some foreign market offers a demand for them.

The English, French, and Dutch, may be considered the principal commercial nations of Europe.

In England, I believe, all goods may remain some months, and most of them may remain from two to five years, in the public warehouses, without bond, except such as are liable to excise, which must be bonded when put into the warehouses, and on prohibited goods, bonds must be given to export them; the payment of duties may be delayed until the goods are taken out of the warehouses for consumption. In France, goods may remain in entrepot twelve months, with the privilege of further time, by special permission; on taking them out for consumption, the duties must be paid, either in cash or by bond with sureties at four months; but goods are generally sold, in France, in entrepot, and the duty paid by the purchaser, as he takes them out for consumption.

In Holland, goods may remain twelve months in entrepot, on bond, after which prohibited goods must be exported, but other goods must remain longer by permission of the board of licenses.

In Spain, the payment of duties is required when goods are taken from the custom-house, but I don't know how long they are permitted to remain there.

In the ports of Italy, all goods are sold in entrepot; the duties are paid by the purchaser when taken out for consumption.

In Denmark, the duties are not paid until the goods are sold to the consumer.

It will therefore be seen, that, although the European systems differ from ours, yet, that those systems afford, really, even longer credits than are allowed by our Government; with this difference, however, that there, in most cases, the goods themselves afford the security for the payment of the duties, and if the goods, by any casualty, are lost to the owner, the duty is lost to the Government. With us, instead of holding the goods, bonds with sureties are taken, and, although goods are lost by any casualty whatever, (which not unfrequently happens,) yet the duties are paid to the Government. And I am confident that, to this time, the Government have been great gainers by the adoption of our own system in preference to any of the European ones. Under our present system the merchants know when their payments to Government become due, and prepare to make them; but, under the system contemplated by this bill, they cannot be so prepared; their ships may arrive two or three months earlier than expected, at a moment when they have just used so much of their means and so much of their credit, upon some new adventure, as to be unable to raise twenty, thirty, or one hundred thousand dollars at short notice; but if their ships should not arrive so soon, by two or three months, as may be expected, the funds which they may have provided for the payment of duties will, in such case, remain unproductive. A large portion of our imports are made in the spring months of March and April, consequently the cash payments required at this time will be so large as to cause a pressure in the money market, at that time, and, as the banks will be apprised of this, they will rather lessen than increase their accommodations, at a time when they will be most wanted. There is already much complaint of the scarcity of money; the passage of this bill will not lessen this complaint.

This bill discourages importations generally; this policy is the reverse of every thing seen in Europe. It is the policy of other nations to encourage the importation of almost every article, even if prohibited for consumption; this is done, not solely with a view to benefit the revenue, and to keep down prices, but also for the further purpose of sustaining the carrying trade; and we ought to do the same, at least as far as respects articles with which we cannot supply ourselves.

It has also been said on this floor that the credits now given operate as a loan to the merchants. It will not be denied but this may be the case in some instances, but equally true that in many, and I believe I may say in most cases, the duty is paid to the Government before it is received from the consumer; and I think it may be said, without fear of contradiction, that, on an average, the duties are paid before they are realized from the sales of goods. So far as my own experience has enabled me to judge, this has certainly been the case. I have some goods now on hand, the duties on which have been paid more than three years. If merchants are compelled to pay the duties before they can realize them from the proceeds of the goods, it must be seen that the effect will be to lessen their business, and, consequently, to lessen the revenue.

It has also been said, that great losses must have been sustained by the Government, in consequence of these credits on revenue bonds. Have you ever heard any such complaints, even from the Treasury Department or elsewhere? No, sir, we have not heard any such complaint, because no such losses have happened. The revenue which has accrued from the customs, from the 4th of March, 1792, (the commencement of the present revenue system,) to the end of the year 1819, is $351,329,799, upon which there has been a loss of $1,037,355, and a fur-

ther sum of $540,969 which may be lost, in whole or in part; but, supposing the whole to be lost, the amount of losses will be $1,578,324 —a little short of 45-100ths of one per cent. In the district in which I live, although the trade from that district is such as is entitled to the longest credits given by our laws, the losses have, I believe, been less than 1-100th part of a per cent.; and in the district of Boston, in which immense sums have been bonded, the losses have not, I think, exceeded 1-10th of a per cent. The official report from the Treasury Department shows that the whole losses throughout the United States have been less than half a per cent. Now, I ask, if another instance can probably be found in the world of a Government, or even an individual, having sustained so small a loss upon its, or upon his credits, or upon any class of credits, for a space of thirty years, in the course of which, it should also be noticed, that a foreign war, embargoes, and other restrictive measure have taken place, which have essentially affected the interest of those people who have had these payments to make? There is, I think, no hazard, in saying, that in no country on earth has the revenue from customs been so promptly paid as in this.

If the object of this bill is to aid the manufacturing interest, I must say that, in my humble opinion, that aid ought to be sought in some other way than by coercing people to abandon commerce (by making it more profitable to them) for the purpose of inducing them to devote a portion of their capital to manufacturing purposes; and really it is only in this way that I can perceive any benefit will be afforded to the manufacturing interest by this bill. It will not have much if any effect upon the importation of European manufactures, because, if the greater part of those importations are made by the agents of foreign establishments, as we have been repeatedly assured is the case, those agents, on the arrival of their goods, have only to sell a bill of exchange on their principal in Europe for as much money as is needed to pay their duties; and these bills of exchange are always a cash article in the market. This description of importations will therefore be less affected by the provisions of this bill than any other.

If I know myself, I am a friend to manufacturing establishments, and am disposed to afford to that interest every aid and encouragement that can be given, consistently with due regard to the other great interests of the country. The other day, I gave my vote freely and satisfactorily in favor of clothing the army with our own manufactures, without restriction as to price; but, at a time of general depression, I cannot consent to build up any one interest of the country upon the ruins of another.

If higher duties are necessary for the protection of our domestic manufactures, I have no objection to a reasonable increase of such duties, but I have always considered the imposition of duties upon a minimum price, to be an incorrect way of assessing them; it is a mode which has not, I believe, ever been adopted by any other nation. I was therefore induced the other day to move that the proviso, in the contemplated tariff, relative to coarse cotton goods, be stricken out; not, however, with a view of lessening the duty on such goods, but for the purpose, as I then stated, of changing the manner of assessing that duty from a nominal to an actual percentage; and whether this had been fixed at 50 or 150 per cent., I should not have objected to it.

Sir, we are now called upon to decide whether we will, at this moment of general depression and distress, abandon a system which has been in successful operation for more than thirty years; a system which has been productive of immense wealth to the nation, and been universally acquiesced in until this time, and adopt a new one of untried operation and effect; one which imposes such conditions as are not imposed by any other commercial nation, and such as ought not to be imposed by this, unless we are disposed to aid the nations of Europe to build up their commerce and navigation upon the downfall of our own.

The passage of this bill will make the foreign trade of the country a monopoly in the hands of the capitalists and foreign agents, will injure if not ruin all the young and enterprising merchants of moderate property, will enhance the price of foreign articles to the consumer, not only by lessening the importations, but by placing them in the hands of capitalists who can and who will hold them for high prices, will have a tendency to lessen the price of our own products by lessening the number of purchasers for exportation, will lessen the revenue at least for several years to come; and what is worse than this, it would be productive of smuggling and other fraudulent practices, the temptations to which ought to be more cautiously avoided in this country than in any other, because our extensive sea-coast and innumerable rivers, bays, and creeks, afford greater facilities for these practices than are found in any other country.

Engaged as I am in commercial pursuits, it may, and probably will, be supposed that I am induced by motives of self-interest to oppose the passage of this bill; for the purpose, therefore, of preventing the effect of such a supposition, I assure the committee that, as an individual, I feel rather indifferent than hostile to the provisions of the bill. My own private interest would, I think, be rather benefited than injured by the passage of it; but knowing as I think I do that it will be productive of much public as well as private injury, and that the present state of commerce will not bear it, I feel it to be my duty to oppose it.

Mr. LOWNDES also assigned the reasons why he also was opposed to the bill, and particularly to the provisions which contemplate restrictions on the East India trade.

Mr. CLAY spoke in reply to Mr. SILSBEE and Mr. LOWNDES, and urged the adoption of the provisions of this bill.

Mr. LOWNDES again spoke; and Mr. CLAY rejoined.

Mr. BALDWIN was speaking earnestly in support of the bill; when an alarm of fire, in the city, induced the committee to rise, (at four o'clock,) and the House adjourned.

TUESDAY, April 25.

Revision of the Tariff.

The House then again resolved itself into a Committee of the Whole, on the bills concerning the duties on imports and the mode of their collection.

The bill now under consideration, is the bill regulating the payment of duties on merchandise imported, and for other purposes.

The question immediately before the House being on Mr. SILSBEE's motion to strike out the first section of the bill,

Mr. BALDWIN resumed and concluded the speech which he yesterday began, in support of the principles of the bill.

Mr. JOHNSON, of Virginia, followed in decided opposition to the bill.

Mr. WHITMAN, of Massachusetts, spoke at large against the bill.

WEDNESDAY, April 26.

Revision of the Tariff.

The House then again resumed the consideration of the bill regulating the mode of collecting the duties on imports, &c. Mr. SILSBEE's motion to strike out the first section of the bill being yet under consideration,

Mr. ALEXANDER said, he hoped he should claim the indulgence of the committee for a short time, while he expressed the reasons that would influence his mind in the decision of the subject then before it. He was aware of the disadvantages under which he labored, and trusted that he might be pardoned in assuming to himself any part of the discussion on so important a question. His apology, however, in throwing himself upon the patience of the committee would be found in the very brief remarks that he should submit to its consideration.

I cannot permit myself, said Mr. A., to remain satisfied that the present is merely "a bill to regulate the duties on imports," which would have justified my silence on the occasion, but that it is something more, as clearly appears from the latter part of its title, and it would more properly be entitled, "a bill for the encouragement of domestic manufactures," the avowed object of its advocates. Nor can I persuade myself, continued he, notwithstanding the ingenious and imposing manner in which the subject has been placed by the honorable gentleman from Pennsylvania, (Mr. BALDWIN,) who opened the debate, that the other great interests of the country have been associated and identified with it in principle, while all due regard has likewise been paid to the revenue of the Government, no less important. Here we find ourselves unfortunately at issue, and it becomes us calmly to deliberate and weigh well the effects, before we yield our assent to the truth of a position, which, to say the least of it, is extremely problematical. The gentleman who was first in the debate, (Mr. B.,) has openly denounced the present system of revenue, (derivable, by much the greatest part, from duties,) as unsound and inadequate for the purposes of Government; and he declares his readiness to adopt a more permanent one, operating directly as a tax upon the people. In this opinion, he fortifies himself under the Message of the President upon the opening of the session of Congress, and the report of the Secretary of the Treasury on the state of the finances. So far as these can add strength to his argument, (and no one, I am persuaded, is more disposed to give weight to their character than myself,) he is fully entitled to their benefit. But, if a negative can anywise grow out of an affirmative expression, I think it may be fairly inferred in both cases.

It will be perceived, said Mr. A., that I assume, as the basis of my argument, that the branch of industry which is capable of supporting the greatest quantity of capital, is most advantageous to the community, and consequently to the nation, and should remain unfettered, unrestrained, in exclusion of the claim of any other towards encouragement; or, in other words, that nations, like individuals, might be permitted to pursue their own interests in their own way. Leaving the channel of trade perfectly free and natural, there can remain but little doubt that, like the fluid which gives health to the system, it will seek its proper level, and contribute to the mutual benefit of each branch; and wherever the wealth of individuals has been promoted, that of the society will be augmented in an equal degree. But depress it by force of causes, and it immediately becomes like the stagnation of blood in the body, and there is danger of an apoplexy.

Statesmen, Mr. A. said, were never more uselessly employed than in attempting to direct the avenues of trade, by producing an equal division of labor among them. These depend upon circumstances as variable and undefinable as the causes that operate upon the circulating medium of a country, which, since no human ingenuity, law, or punishment, has ever yet been able to regulate, so neither are they within the control of any power, without detriment to the public interest. But it has been said, that national pride should induce us to adopt a policy countervailing that of foreign powers, by which we throw off a state of dependency altogether in favor of the citizen, to become subjected to a greater and more intolerable degree of servitude.

Sir, said Mr. A., I should be extremely sorry

to see our pride so far get the better of our judgments, as to lead to a course ruinous to the best interests of the country; little else, in fact, I humbly conceive, than an act of political infanticide, and for the encouragement of manufactures, which, like false pride, always places true beauty in the background. That cases may arise where it becomes necessary to resort to retaliatory measures, I shall not pretend to deny, but mean only to say, that this is not one of that character; and even then they should not be adopted without proper caution and deliberation, and where there was a probability of removing the evil complained of, because their efforts are felt in a greater or less degree at home.

Even England herself, whose policy is always made the fatal example of reasoning, (and, unless we depart somewhat from the track she has marked out, I fear we shall find ourselves at last in the same wretched condition of poverty and distress which she at present exhibits, groaning under a burden of excessive taxation, which is but oppression under the best of governments,) has not found it to her advantage to exclude entirely foreign articles, many of which she is capable of producing to a high degree of perfection. Although high duties are imposed, both by England and France, upon the respective manufactures of each, dictated, not so much from a spirit of national aggrandizement as national animosity, goaded on by the clamors and insatiable avarice of monopolizing merchants and manufacturers, yet, trade is still carried on between them, under the most odious and demoralizing of all traffics. And when we call the worst passions of men into action, it is reasonable to apprehend like consequences in our Government, whose basis rests on the moral character of its citizens. It may be said that the same effect will not be produced here, because they are not intended to be prohibitory. I shall, however, consider them presently in this point of view, and endeavor to show, unless they are so to a certain degree, no advantage can be derived from the increase, but it must operate entirely as a tax upon the consumption of the country. The wines of France are permitted to be imported into England, although it is well known that certain parts of her kingdom might be made favorable to the growth of the grape; and with equal propriety, under the idea of encouraging domestic industry, ought you to extend this benefit to the inhabitants of Vevay, or any other portion of our Southern country, whose soil and climate are peculiarly suited to the cultivation of the vine, because you have it in your power to supply the whole United States. China (who treats the commerce of the rest of the world as beggarly, and where the laborer exalts his situation little less than that of the Mandarin himself, in claiming a portion of the soil as his own) is not shut out from the markets of England with her rich fabrics, although many of them are successfully promoted within her own dominions. Yet, even these people, for the want of a more liberal foreign intercourse, present the most abject state of poverty, ignorance, and barbarism; and, in truth, it may be said, that the laborer here is not always "worthy of his hire."

The policy cannot be otherwise than founded in the best of all possible reasons: that there can be no justice in causing fifty or a hundred times as much capital and labor to be employed at home, in the production of an article, that would be required to purchase the same of foreign manufacture. There are advantages possessed by some countries in a greater degree than others; so much so, that it would be dangerous to come in competition with them, and folly in the extreme to prosecute a policy, where would be seen failure in the very attempt, and total annihilation in the end.

This brings me to consider the situation of our country with regard to England in such a contest, where she would occupy entirely the "vantage ground." I take it to be a correct principle for the interest of a nation, to augment as much as possible its rude products, and to exchange them for foreign commodities; and that which is good economy among private families, can hardly be bad among nations, to buy of others what we cannot make so cheaply ourselves. For, if a Government can increase the quantity of its annual exports, whatever is gained in the way of exchange is so much added to the capital of the society, and, of course, to its own wealth; and it is not correct to say, that, whatever is purchased abroad when it can be made at home, is one man's loss and another's gain; the difference of price in bringing the articles to market forming the difference in value, which may relatively be in favor of each.

Such is the very purpose for which society was established, and what would be the use of trade among individuals, were they to manufacture within themselves all that their wants might require? The mechanic of one description finds it to his advantage to buy of that of another, and thus, by the combined exertions of each, society becomes, as it were, a machine to carry on all the various operations of labor, too great for the power of any one individual to accomplish; and if nations were governed by the same selfish and contracted views, the trade and commerce of the world would soon be at an end, and all the advantages arising from them be entirely destroyed.

But it is as essential to the prosperity of a nation to encourage foreign trade, as it is for individuals the industry of each other, by a proper division of labor. Considering the rest of the world as a manufacturing people, it is more important to us that our capital should be employed in the channel through which it at present flows, in the improvement of agriculture, than that of any other, Nor do I conceive the argument of my honorable colleague, (Mr. TYLER,) to prove that we stood, in relation to

the rest of the world, as a granary, which Egypt once was to Europe, and Sicily to Italy, at all shaken by that employed by the honorable gentleman from New York, (Mr. STORRS,) to show that, if it were a granary, it was that sort of granary which permitted all our grain to remain upon our hands. For, let me ask the honorable gentleman, if we were cut off from the extensive market that is now opened for the reception of our produce, and confined to the limits of the United States, would we not be more properly a granary in the sense in which he used it? England, possessing advantages peculiar to herself in this respect, where her population is dense, and wages of labor are comparatively small, finds it to her interest to manufacture for the greater part of the world; whereas, on the other hand, we, whose population is sparse, and price of labor is high, find that greater profits are derived from agriculture. Such is the fair and honest course of trade that should exist among nations, that, while one should be manufacturers, the other should become the growers of the material; and thus, the competition of the whole world being brought to a particular market for the rude products of the soil, a monopoly to a certain extent is obtained in the one case, while it is diminished in the other. The trade which is carried on in this way, consists in an exchange of the rude for the manufactured article, and the smaller the quantity of one which is required to purchase a greater quantity of the other, will be the proportionate value of the two. Whatever tends to diminish the value of the former, by high duties or prohibitions, operates injuriously in two ways: firstly, by enhancing the value of the foreign commodity, the price of the surplus produce of the land is diminished, and a monopoly is given to the home manufacturer and artificer, at the expense of the landed interest, by diverting a portion of its capital to another employment. And it would be an absurdity to say, the market of the world is open to you, when it must be manifest, unless you export something, you can bring nothing in return.

This, then, I take to be the case, said Mr. A., which is intended to be produced by the present measure; and, let me ask if it is just, if it is desirable, that the most valuable branch of industry should suffer, or be made to contribute to the protection of any other, than in the natural way? For one, I am prepared to say that it is not, generally speaking; and as agriculture was the first among the Greeks and Romans in their best days, who regarded all others as menial, from being unfavorable to the exercises of the Gymnasium and Campus Martius, so should it be the last to be forsaken by us. For, if such be not the effect of the system, I take it for granted the expected result will not take place. If the duty be not so high as to diminish the revenue of the country, the enhanced value of the foreign will only give an equal advance to the home manufacture; and, standing precisely in the same relation to each other, the superior quality of the former will give it a preference over the latter, and it can operate only as a tax upon the industry, without a corresponding benefit. I take the fact to be, said Mr. A., that the manufacturing interests of this country require a greater quantity of capital, in order to carry on their operations, than it is within their power to command.

It then follows, that all the capital of the nation is employed in the most natural and advantageous way in which it can be used. The deficiency can be supplied in only one of two ways —either by diverting a portion of it from one branch of trade to another, or suffering all the sources to remain uninterrupted and free, until they are filled, and then the surplus will turn itself to that employment which brings in the next greatest revenue, and will afford the proper encouragement to industry. I am disposed to adopt the latter expedient, because it is not forced, and no unnatural convulsions are likely to arise out of it to the commercial world, and to avoid the former as altogether in favor of the producer and against the consumer. And I must confess, that I do not understand this way of taxing the right hand to support the left. Let nature have her course, and she will work out her own safety. For, I lay it down as an incontrovertible position, said Mr. A., that the general industry of a society can never exceed the capital which it employs, and increases in proportion to the increase of its capital. Whenever this takes place, it immediately seeks and finds out new and different objects, to which it is directed, and adds to the productive labor of the country.

If the fixed capital of the existing manufactures be sufficient to sustain them, I contend that they require no further support, as they possess superior advantages over any foreign, and much greater than can be expected to be enjoyed by new ones coming in competition with them; and if it be intended to raise up new manufactures, not by the creation of new, but by the diversion of old capital, it must operate as a tax upon the consumption of the country, amounting to a prohibition of all foreign productions.

It is in vain for the friends of the system to say that such is not their design; when we reason from cause to effect, and view the interests, passions, and prejudices, that lead men to action, we cannot but distrust the consequences, and look to the ultimatum of which it is capable. Suppose, for a moment, that it should succeed, to the admiration of its advocates. Can it be expected to bring the manufactures of our country (which of all other trades requires the most extensive circulation) in competition with those of foreign powers, where labor is cheap, and who are many centuries before us, or is it intended to confine their circulation to the home market? If the former be the intent, it cannot be executed; and the latter must equally fail, since, for all valuable purposes, the

agricultural part of the community are a manufacturing class, and want only those richer and finer fabrics, which it is impossible for us, within any short time, if ever, to bring to any sort of perfection. And then will the American tar, the honest defender of "free trade and sailors' rights," become, like the Chinese boatman, without a hovel to breast him from the storms of the ocean, lying upon his oars, in the bed of his own waters.

Mr. ARCHER, of Virginia, said, that the whole merits of the bill being presented by the motion under consideration, he would offer himself, for a short period, to the notice of the committee. He had no design of abusing the patience he solicited, by going at large into the discussion of the question, which was one of the most extensive in the science of political economy. His purpose was limited to the narrow object of a brief exposition of some of the more considerable of those views of the question, and topics connected with it, which appeared to him to be the best entitled to claim attention, or the most calculated to attract it.

The first objection to the bill related to its apparent inefficacy in reference to its avowed object. The augmentation of the duties on imports which had been made when the subject had been last under the consideration of Congress, in 1816, amounted, Mr. A. believed, to an average of about twenty-five per cent. The additional augmentation contemplated by the present bill would amount, he had been informed —he had not himself made the estimate—to an average of not more than seven or eight per cent. Had the former augmentation produced, in any degree, the effect which was now designed of protection to domestic manufactures? No. We were told by the friends of the protecting system that our manufacturing establishments have gone to absolute ruin, under the protection which had been heretofore afforded them. If this representation were correct, could the increase of duties now proposed be considered sufficient for the retrieval from ruin, and efficient protection of, these establishments? If it could, the imposition which it created must be regarded as unreasonably high and oppressive, in relation to all classes of the community other than that which was intended to be protected. But if this increase could not be considered adequate to the effect which had been stated, then the imposition was nugatory to its alleged object. Take it either way and this imposition would either be excessive, or else inadequate. In either character it was equally indefensible. Mr. A. was aware that an object larger than the alleged object of the bill, had been imputed to the framers and supporters of it. It had, he knew, been supposed, that their design extended to the inception of a system, which was to be rendered gradually progressive to positive prohibition on the admission of foreign manufactured articles, or to a rate of duties so high as to be tantamount to prohibition in its effects. It was alleged, in evidence of the entertainment and possible success of such a design, that the same topics of argument derived from the supposed advantage and propriety of the protective policy, which were employed in recommendation of the augmentation of duties now proposed, would be of equal, and greater, efficacy in the recommendation of further augmentations which might hereafter be demanded, from the force of the obvious connected consideration (which would not fail to be relied on) of the necessity of these further impositions to prevent the cost and effect of the former from being thrown away. Mr. A. was himself far from imputing any such view as had been stated; nor, if such a system of policy ever should be proposed, could he have any fear of its success, founded, as he conceived it to be, in an obvious principle of injustice and inequality, as respected its operation on the different interests of the community, and condemned, as it unquestionably was, by a uniform experience of fruits of mischief and suffering in every country in which an experiment had been made of it. Without connecting the bill under consideration with any odious policy of this sort, it stood sufficiently divested of title to support, by reference to the demerit of its real objects and proper operations.

While upon this topic, the objects of the bill, frankness required Mr. A. to state, that he did not consider it as directed to the attainment of any object of public policy at all. He considered it as one of the instances of that practice of appeal to public authority for the relief of private distress, the remarkable prevalence of which was the unhappy characteristic of the period in which we were called upon to deliberate. A general depression and distress affected all classes of the community, the result, as was conceived, of commercial over-action, and the operation of that system of paper currency, of which some species of necromancy must have dragged us into the adoption.

The manufacturing class was supposed to partake, in a peculiar degree, of this distress, and the present bill was a project for the relief of their private adversity, through the medium of a legislative intervention. Mr. A. considered himself justified in regarding the subject in this view, both from the inadequacy of the bill to any purpose of public policy, (which had already been adverted to,) and the nature of the representations employed in its support. What were these representations? Did they relate to any inherent disadvantage, or incapacity, affecting domestic fabrics, in maintaining competition with the imported for the domestic market? Not at all. The depression affecting domestic manufacturing establishments, which was made the foundation of the demand for relief, was referred to causes accidental entirely in their access, or temporary in their operation. Excessive importations of foreign manufactured articles, the unusual reduction of their price, and of that of the labor employed in preparing them; the undue extension of domestic business, disproportionate investments of capital in a fixed

form, (buildings, machinery, &c.,) the effects of a general restoration of peace, and the operation of the paper system on markets and industry: these were the causes assigned as the sources of manufacturing distress, and the grounds of legislative interposition for its remedy. But did these grounds disclose any object of general permanent policy, requiring the adoption of the measure which was pressed for adoption? Mr. A. could not perceive that they did. He considered the present bill as belonging to the same class of character with the bankrupt bill. The distinction, indeed, was to the disadvantage of the present bill, in the comparison. A bankrupt act operated only on a particular injustice. The sacrifice of interest which it involved affected only a peculiar class, (the creditors of bankrupts.) It might be considered, too, as a contingent, and was not a continuing sacrifice. But the imposition which the present bill, if it passed, would create, would not only be a general burden on the community, for the benefit of a peculiar class of it, but would be a certain, and was designed to be a permanent, imposition.

The impairment of manufacturing capital, furnished no sufficient reason for the adoption of the bill. The preservation of manufacturing, could not be more important than of commercial capital. The fund which supplied consumption could not be considered of greater consequence than that which afforded the means of disposal for production. No person, however, would think of a measure of the character of that now proposed for the relief of commercial distress. If the commercial capital of the country were entirely annihilated, no factitious incitement or aid to the operation of capital, in this direction, would be thought of. And why? Because occasions for the employment of capital were known always to attract capital, or create it, in pretty nearly the exact proportion of the exigency of these occasions. An occasion so essential as the disposal of the productions of a country which were elsewhere in demand, could not fail of finding means for its discharge. Even could a state of circumstances be imagined, in which there was no subsisting accumulation of capital, and no description of public currency, yet credit, or an artificial substitute of some kind, would be found to supply their place, in ministering to the operations of commerce. The remark was no less inevitably true in relation to the occasions of a country for manufactures. No fear was to be entertained of any serious or lasting defect of the essential facilities for their supply. The capital for this purpose might not indeed be derived from domestic sources; but this circumstance did not present a consideration with which the community were in any material degree concerned. It was the certainty, not the source of supply, which formed the principal subject of their interest, and was entitled to claim the chief exercise of their solicitude.

We had come to realize, in our public conduct, the justice of an expression used in reference to another and more important subject of human interest. We confessed truth with our lips, but in practice we denied it. There was scarce any person, perhaps, who did not admit the abstract proposition, that capital, in the pursuit of the modes of employment most productive of profit to its proprietors, fell, unassisted, unto those which were calculated to produce the most beneficial results to the community. This was one of the principles the least liable to controversy or qualification, which were presented by the theory of a just political economy. Yet, it was in the direct contravention and overthrow of this indisputable principle, that the foundations of the policy, which was at present recommended to us, were laid.

The reason, too, which explained this principle, it was material to understand, both on account of its own illustration, and the importance of the deductions to which it led in the discussion. The reason was to be found in the tendency of capital, uninfluenced by public authority, to be determined, as respected the modes of its employment, by demand, which furnished the standard at the same time of the utility of its employment. The expenditure of capital was directed by obvious considerations (relative to the interest of its proprietors) to subjects of the greatest and most general request; and these were the subjects and the employments of labor and capital which procured them the employments which had, in a general view, the strongest presumptions of utility in their favor. Demand was the index of the beneficial, as it was of the unbiassed, direction of capital.

The inference from this proposition was of singular importance. It was, that no direction of capital, relatively useful, could require adventitious encouragement. Why? Because this character of utility was the infallible source of adequate demand for the productions of capital employed in this direction, and adequate demand for the productions of any employment, dispensed from the necessity of its adventitious encouragement. The converse of the last proposition was equally true, that no employment, requiring factitious encouragement, could be relatively useful. Why? Because this occasion for encouragement demonstrated a defect of adequate demand for its productions, and the defect of adequate demand for its productions was evidence of its want of relative utility. The force of these conclusions, in their application to domestic manufacturing establishments, was in no degree obviated by the suggestion, that the existence of adequate demand for their productions was prevented by the interchange of foreign competition; because this suggestion only proved that, although in a different condition of circumstances, in which a deficiency in the supply of foreign manufactured articles was experienced, the establishments in question would be useful; yet, under existing circum-

stances, in which no such deficiency was experienced, they could assert no pretension to this character of utility.

The proposition which had been stated, of the voluntary tendency of capital in a course of unbiassed distribution, to conform to the order of employment which public utility would prescribe, was, in its general acceptation, perhaps the most familiar trash in the science of political economy. We are told, in every book of elements on the subject, that the natural and most advantageous course of the distribution of capital was, in a progressive succession, from agriculture to internal trade, and thence to a foreign trade of exportation; to manufactures, or to indirect foreign trade, as peculiar circumstances might determine. Could any adequate reason be assigned for the contravention, with a view to the peculiar encouragement of manufactures, of the general laws of the distribution of capital? The ground of such a proceeding was to be found, not in sound policy, but prepossession.

It was an evident proposition, that an employment which required factitious encouragement, must, in a pecuniary view, be a losing one. If, therefore, encouragement was due to domestic manufactures, it could not be in an economical view, but from their supposed subserviency to some collateral object, regarded as important—as national independence, for example. The question, in this aspect, would present itself for examination in a succeeding part of the discussion.

The freedom which had been used, in speaking of the reasonings in opposition to the bill, authorized Mr. A. in indulging the frankness of saying, that the argument employed in its support appeared to him to be founded in a series of fallacies. It was irrelevant, as respected several of the principal propositions sought to be established. It was misconceived, as respected the time and circumstances to which it was applied. It was erroneous, as respected the topics of reasoning it employed. A person would be led to suppose, from the course of observation adopted on the other side, that the question related to the importance and necessity of adequate supplies of manufactured articles, or to the abstract advantage attending the possession of domestic establishments for the attainment of these supplies. But these were propositions not liable to controversy. The question related not to the necessity or value of supplies of manufactured articles, but to the relative advantages of different methods of procuring them—to the choice to be exerted between obtaining them at a cheaper rate from foreign, or at a higher price from domestic sources. Neither did the controversy refer to any abstract superiority of domestic over foreign sources of supply, but to the mode and time of their establishment—to the choice between an artificial introduction of domestic establishments at an earlier period, attended with the charge of a burdensome system of protective duties for their support, and a natural spontaneous growth of these establishments, at a more advanced period, unattended with any system of regulation, or charge for their encouragement.

But there was no part of the argument employed in recommendation of the proposed system, which appeared so egregiously exposed to criticism, as that in which the favorable character of the present period for its introduction was asserted. The condition of general distress which characterized the existing period was admitted, and yet it was conceived to present a favorable occasion for the experiments of a policy involving an addition to the ordinary and necessary sources of expense, by which all classes of the community would be affected. The peculiar characteristic of the distress complained of, related to the depression in the price of whatever there was to sell. One strong circumstance of relief, however, had been found, in the corresponding depression in the price of the most material articles we had to buy. In such a condition of things, what was the policy recommended? An operation, by which the only circumstance of relief which the situation of the country presented, was to be cut off—by which the prices of all the most essential articles of purchase would be enhanced, whilst those of our vendible commodities (to state the case in the most favorable view) were to remain unaltered. Beneath the picture of a policy of this sort, it could not be necessary to write the name. Mr. A. had been describing the operation of the bill, as tending to a mere purpose of private relief. But this description did not express the full character of its demerit. It was a bill against public relief.

The principal advantages anticipated from the success of the proposed system were referable to two general heads, the establishment of domestic sources of supply of manufactured articles, and the establishment or extension of a domestic market for the surplus of agricultural productions. The first of these advantages was, in the peculiar circumstances of our situation, rather nominal than real; or, in the most favorable statement of the case, far less important than had been represented. The point in which the public were interested in this respect, related principally to the character, not the source, of the supply of manufactured articles. Their interest required that this supply should be good, cheap, abundant, regular. But the supply from domestic would not be of better quality than from foreign sources. It would not be of cheaper, but on the contrary, of dearer price, by the amount of the difference which would be created by the proposed increase of duties. It would not be more abundant or regular. In both these respects the supply from foreign sources, except in the contingency of a disturbed state of the foreign relations of the country, could be the subject of no complaint. The only real advantage, then, attending the possession of domestic establishments for the supply of manufactured articles, related to periods of war,

which might be expected very rarely to occur. By the policy recommended, we were to be subjected to a constant, permanent monopoly-price of the most essential articles of consumption, for the purpose of being guarded against a price somewhat higher, in a contingent, remote, unfrequent event. A considerable enhancement of price was, in this respect, the sum of the evil which could be involved in the event of war; for the supply of no essential article was liable, in such a contingency, to be absolutely cut off. Nor was the evil consequence to be apprehended from war, liable to be incurred in any other than the single instance of a war with Great Britain. The concurring interests of the supplying countries, and the superiority of our public and commercial marine, would be a safeguard against the material obstruction of supply, from the effect of war with any other power. The feeling of resentment prevailing against Great Britain, the result of the persevering and malignant character of her hostility, was strong and general in this country, but this feeling was not, it was to be hoped, of a nature to be susceptible of misdirection, to an unrequited and essential sacrifice of public interests. The abundance of the materials of manufacture, and the facility of conversion to a manufactured form, which the most important of them admitted, would preclude, even in a war with Great Britain, injury from the obstruction or enhanced price of supply, in any degree commensurate with the cost of the means, which were recommended as security against the chances of it. More injury, in disturbing the regularity of supply, was to be apprehended from the effect of the proposed policy, in impairing the regularity of our demand for that supply.

Arguments were rendered palpable by example. There were few articles of more essential necessity than salt. From this characteristic of it, and our habit of reliance on external sources for supply, there was, perhaps, no article liable, in a higher degree, to enhancement in price in time of war. But salt was susceptible of supply from domestic sources, to an indefinite amount. Would any man be found to recommend the protection of domestic establishments for the preparation of salt, by such a system of duties as would insure their operation in time of peace? Yet the supply of no article was more important. Why should the policy surrendered in relation to this article, be proper in relation to others? If the material, in the instance of any other article, were of indigenous growth, the same reliance might be had on the resource of domestic fabrication in time of war, with which we were content in case of salt. Or, if the material were not indigenous, then the supply of it would not be less liable to obstruction, in a season of war, than that of the wrought article. In either event, the resort to high protective duties for the encouragement or preservation of the domestic manufacture, appeared to be equally unadvisable. The argument derived from the different preparations of machinery or skill, required in different departments of manufacture, was not of sufficient force to obviate or impair the correctness of the conclusion.

The principal reliance, however, of the argument in favor of the protective system, rested on its tendency to the formation of a domestic market for agricultural productions. The great and enlarging amount of our agricultural labor and productions, might be expected in the lapse of a short period. It was said, to render these productions redundant, in relation to their present markets, and an obvious policy, therefore, required the immediate substitution, through the medium of manufacturing establishments, of a domestic market; which, by its progressive extension, might have the effect of obviating, or providing a remedy for, such a condition of affairs. The answer to this representation was attended with no difficulty. It was, that the remedy sought to be provided, in the mode proposed, would be found available without any occasion for legislative regulation, by the necessary ultimate operation of the various circumstances which were thought to call for this regulation.

The population of the country being progressive with its means of subsistence, would continue to observe the proportion which it now did, to production. Production, therefore, could be expected to exhibit, relatively to domestic demand, no greater redundancy than it did at present. The redundancy anticipated, must refer to foreign demand entirely.

But the labor and capital which it would be the effect of this supposed redundant state of agricultural productions to disenage from agricultural employment, must find some other mode of occupation. They could not remain unemployed; and in what direction could employment be found for them? Not in commerce, for the capacity of commerce to furnish occupation to labor and capital was determinable by the operation of foreign demand for their productions, and this demand, under the circumstances supposed, must be excluded. There was left but one resort for the employment of this disengaged labor and capital, and that was in manufactures. Not only without aid or direction, but by an impulse which could not be controlled, they must flow to fulfil this destination. The manufactures thus established, (it was to be further observed,) from the contiguity and abundance of materials, and the depressed price of these materials, which the hypothesis supposed, must of necessity be enabled to maintain, unassisted by positive encouragement, a successful competition with fabrics of foreign origin. Here, then, was the effect desired, realized, independently of any occasion for regulation. The object proposed was, through the medium of a complicated and burdensome system of duties, to provide a remedy for an anticipated contingency, and this contingency was found, upon inquiry, to intro-

duce in its occurrence, the very remedy proposed, without necessity for any duty whatever. This effect was in consistency with the order of nature, in which evils, whether of physical or social character, resulting from her unforced operations, were invariably found to generate their proper remedies. It was the eternal effort of politicians to supersede this salutary order, which formed the source of half the mischiefs by which mankind were afflicted.

The attempt had been made to show, that the artificial introduction of a domestic market, through the medium of manufactures, was superfluous, as this market would, at the proper season, be introduced, without exertion or expense, by a spontaneous operation. But suppose the contrary to be the fact, still the advantage of the proposed policy was, to say the least of it, equivocal. There was no accession contemplated as the result of this policy, to the amount of capital or labor. The effect contemplated in this respect, was confined to a mere change of destination, as related to a portion of this amount. Nor was the diversion expected to be made to a more productive, but only (as was supposed) to a more convenient, employment. This, however, was the slightest form of the objection. If it appertained to the scheme of our foreign policy to prosecute commercial intercourse at all with other nations, our account must be laid in the calculation of a general equality in the respective amounts of our foreign sales and purchases.

A resort, in particular, to the cultivation of domestic resources of supply, was almost invariably found to present irresistible temptations to its extension. Resentment, produced by the pursuit of a supposed illiberal policy on the part of a former customer, was a motive of obvious occurrence in co-operation with inducements of this description. The result, then, of the policy recommended to us in relation to the introduction of a domestic market, through the medium of the encouragement of manufactures, besides involving the certainty of a loss in the extent of the foreign market, equivalent to the acquisition of domestic market, led to an exposure to the loss of a much larger proportion, or the whole, of the foreign market. In the best result of the policy, there could be no gain in the extent of market. In a different result, a great deal, of every thing, in this respect, might be lost. A course of policy of this character could set up no pretensions to the award of an impartial judgment in its favor.

Let, then, a fair account be stated of the relative amount of advantage or disadvantage to be anticipated from the proposed system, and how would the balance stand? In reference to the supposed importance of the introduction of domestic sources of supply of manufactured articles, the whole advantage had been shown to be contingent on a particular, and not probable or frequent event. In reference to the supposed importance of the introduction or extension of a domestic market, through the medium of manufacturing establishments, the advantage had been shown, in the most favorable view of it, to be equivocal.

What were the items of offset to be stated? A considerable and permanent imposition on many of the articles of most essential consumption, in the amount of the proposed increase of duties; subduction from agricultural production to the amount of the accession to manufactures; deduction from the foreign, equivalent to the acquisition of domestic market; exposure to the hazard of greater and indefinite deduction from the extent of the same market; and, finally, the amount of the direct or other taxation, which would be rendered necessary, by the deficit in the revenue, which it would be the effect (as was admitted) of the adoption of the proposed system to occasion. How striking was the disproportion of objection to the system which this statement exhibited! Nor did this statement exhibit the whole objections.

There was a peculiar consideration affecting the condition of the larger portion of foreign manufactures, which rendered the error of attempting to substitute the supply of them from domestic sources, susceptible of being placed in a striking point of view. This consideration related to the necessary advantage which these manufactures enjoyed in comparison with the domestic, as respected the important characteristic of cheapness. The principal element in the price of any article was derived from the value of the labor employed in producing it. The principal circumstance determining the value of labor, was the value of the subsistence required for its support. The last value was determined, in its turn, by a consideration not merely of the kind and style of subsistence to which the classes employed in labor were accustomed.

But in these respects the operation of artificial social arrangements, and of their own disproportionate multiplication, in reference to the regular occasions of employment, had sunk the condition of the laboring classes, in the countries with which we enjoyed the largest share of commercial intercouse, to a very low point of depression. From the causes stated, and perhaps some others, their modes of subsistence, as respected both the quantity and description of its supply, had become, to the last degree, penurious. The amount of their pecuniary compensation had been of course proportionately affected. A laborer in those countries was in the practice of receiving scarcely a greater number of pence than one engaged in a similar mode of occupation in ours required shillings, in remuneration of his labor. The necessary result of the operation of these circumstances had been the depression of the real value, as well as pecuniary price, of the productions of labor in such countries, below the just standard of the value and price of productions of the same denomination and quality in our country. Here was a peculiarity, creating a source of recommendation of foreign manufactures, of which

sound policy would teach us rather to endeavor to avail ourselves of the advantage, than obstinately to contend against it. A further source of similar advantage was found in the peculiar character and latitude of the commercial regulations, entirely inconsistent with the genius of our institutions, of which the forms of government and polity prevailing in other countries, admitted the adoption and enforcement; regulations, of which the policy was to keep down the price of the raw material of manufacture, (like that by which the price of wool was reduced fifty per cent. in Great Britain,) or of which the design was to force an extraordinary production of the raw material, like many of the regulations of France, were exemplifications of the remark. If the question related to the propriety of availing ourselves of the physical advantages of other countries in giving direction to our commercial policy, instead of engaging in an injurious competition with these advantages, there would be no diversity of opinion as to the course to be pursued. It could not be made a question, for example, whether there would be policy in availing ourselves of, or in contending with, the advantages of France for the growth of wines and olives, (supposing that our soil and climate admitted of being forced to the growth of such products,) or of the West Indies, for the supply of tropical productions. What greater reason could there be for refusing to avail ourselves of the benefit of political or social peculiarities, presented by the circumstances of other countries, or for insisting on contending with them? It might be affirmed without difficulty that no adequate reasons for such a policy could be assigned.

Upon the whole, Mr. A. regarded the bill as involving an imposition considerable in amount, and which was neither just in its principle nor equal in its operation. The beneficial results anticipated from its adoption he considered as illusory, and conceived, on the contrary, that its operation would be found fraught with no ordinary detriment to the most essential interests of the community. He could not but hope, therefore, that it would obtain the singular testimony to its merit which the chairman of the committee (Mr. BALDWIN) had spoken of as the most conclusive and unquestionable, viz: that of giving dissatisfaction to every part of the House. This praise it had already earned, as respected one quarter of the House; and it was attended by the hearty good wishes of Mr. A. for similar success in every other quarter. To the general principle of this measure, he could not express his objection more aptly than in the reason assigned by an ancient English patriot, when called to expiate his attachment to liberty on the scaffold, for resistance to an arbitrary Government. He said he had never been able to discover that "some men came into the world with saddles on their backs, and others booted and spurred to ride them." Neither could Mr. A. admit that parties came into the Federal Union in any such relative conditions. And he would take occasion to warn gentlemen who thought, by means of the present or any other injustice, to mount upon the backs of the Southern people, that they would find their seats neither pleasant, nor so entirely secure but that they might chance to encounter a fall, from the effects of which it might not be easy to recover.

THURSDAY, April 27.

Revision of the Tariff.

The House then again resolved itself into a Committee of the Whole on the bill regulating the duties on imports.

The question being on the committee's rising and reporting the tariff bill to the House, the debate thereon was resumed.

Mr. BARBOUR, of Virginia, addressed the committee as follows:

Mr. Chairman, I feel much indebted to the committee for their goodness in rising on yesterday, to afford me an opportunity of expressing my views upon this subject.

I am about to attempt an answer to the member from Pennsylvania who reported this bill, and other gentlemen who followed him in its support. Considering the arduousness of the undertaking, it might perhaps be the part of prudence in me to decline it; for one gentleman from Kentucky (Mr. TRIMBLE) informed us that he had demonstrated many of his propositions, and thus placed them beyond the possibility of question, although moral and political questions are, in their nature, incapable of demonstration, and it cannot be affirmed of any thing short of demonstration that there is no possible doubt; whilst another member from Kentucky (the Speaker) has invited the opponents of the bill to attempt an answer to the member from Pennsylvania; from which it may be inferred, that the advocates of the bill feel something like the confidence of anticipated triumph. Arduous however as the undertaking may be, fearful as the odds may be against me, I am emboldened to proceed, from the consideration that, in such a conflict as I find myself engaged in, success on my part would be a cause of self-gratulation, whilst defeat would not be attended with disgrace.

The avowed object of this bill is, by means of increased duties upon imported goods, to afford encouragement to that part of the industry of the country which is engaged in domestic manufactures; and the question is, whether such a measure is compatible with the principles of justice, or of sound policy? It will be my endeavor to prove that it is not. Before, however, I go particularly into these views, I beg leave to answer the remarks of the gentleman from Pennsylvania, (Mr. BALDWIN,) and the gentleman from New York, (Mr. STORRS,) of a general nature, in relation to our system of revenue from imposts. They have characterized it with epithets of the severest reprobation. It has been called an unsound, a rotten system. So far from thinking that these epithets are merited,

I have, for my part, a decided preference for the impost system, and I will proceed to state to the committee the reasons of that preference. The whole practice of the Government, from its commencement to the present moment, with but few exceptions, and those principally in time of war, has been to rely upon imposts for the purpose of defraying its expenditures. Of this fact I make the double use, that those who have administered the Government have considered this mode of raising revenue most consistent with the feelings of the people, and that the people themselves, having been accustomed to it for thirty years, would find it more agreeable and convenient than any other. I would not innovate upon it, then, unless there were very strong reasons for a change. So far from this, the reasons are, in my opinion, strong in favor of its continuance. Let us examine them somewhat at large. This mode of raising revenue by impost is the least expensive in its collection, and of course, of any given sum raised by taxation, the less there may be expended in collection, the more there will be applicable to the purposes of the Government. Gentlemen have said that the excise in England was collected at less expense than any other tax. Whatever may be the case in England, such would not be the fair calculation in this country. In England the population is dense, and the manufacturers are collected in large cities and towns, which would make the collection much less expensive than in the United States, where the population is comparatively very sparse, and the manufacturers scattered over a much larger surface. But, instead of detaining the committee with probabilities, I will refer them to matter of fact. The report from the Treasury Department, of December, 1801, states that whilst the expenses of collection on merchandise and tonnage did not exceed four per cent., those on the permanent internal duties amounted to almost twenty per cent. This he ascribed to the dispersed situation of the persons paying the duties, and the total amount of revenue being inconsiderable. But, sir, let us come nearer the present time. It appears, from official documents, that the total amount of duties on imports, for the years 1815, 1816, 1817, and 1818, was (not regarding fractions) $118,383,000, and the whole expense of collection (in like manner discarding fractions) was $2,771,000, not equal to two and a half per cent. upon the whole amount. From the same source I derive the fact that the expense of the collection of internal duties, in 1816, was four per cent. and eight-tenths, and that of the collection of the direct tax of the same year was five per cent. and three-tenths.

A second advantage in favor of the impost system is, that there is much less loss to the Government by insolvency, &c.; it appears that the whole loss upon customs, from the commencement of the system, amounting to the enormous sum of $351,329,799, is not quite one half of one per cent. Without referring the committee to the minutiæ of official reports, I am justified in saying, generally, that the loss in the collection of internal taxes has been much greater, and for this obvious reason, that the customs are collected from a very few persons in comparison with those from whom the other taxes are collected. A third advantage is, that the payment of this kind of tax is an act of volition; the duty becomes a part of the price, and we either buy or not as we choose; whereas, as far as internal taxes should consist of direct taxes, the payment would be matter of compulsion. A fourth advantage is, that this system is calculated to operate more equally. The great desideratum in every system of taxation should be to make every citizen contribute, as far as practicable, in proportion to his ability. As there is no mode of ascertaining that ability with precision, without too inquisitorial a scrutiny, the best approximation which we can make to it is to act upon the principle that every man's expense is proportioned to his ability; the few examples which we observe of a departure from this principle, in prodigality or extravagance, do not disturb the general truth; the present system has this principle for its basis, as the buyer of goods pays a tax according to what he purchases. Although the same reasoning would apply to excises, yet it clearly would not to direct taxes; they, by the constitution, must be laid, not according to wealth, but according to population; thus, in case of a direct tax, a manufacturing State, with millions of capital profitably employed in that way, would pay not one cent more than another State of equal population, whose wealth was even fifty per cent. less than that of the other; but it is not only thus unequal in its operation between different States, it is also subject to enormous inequalities between citizens of the same State.

The direct tax is imposed upon land with its improvements and slaves. Now, sir, it might happen that a man worth ten thousand dollars, if it consisted in lands and slaves, might pay more direct tax than one worth half a million, if it consisted of certain descriptions of property, such as bank stock, funded debt, &c., for this kind of property pays no part of the direct tax. A fifth advantage in adhering to this system is, that now we have one set of officers; whereas, if we introduce a permanent system of internal taxation, the present system must still be also continued, and thus we shall create another set of officers, whose salaries and perquisites of office will be an entire loss, in a pecuniary point of view, besides the vexation produced by being liable to the demands of a double set of tax-gatherers. The last, but not the least advantage which I will mention, is, that the power of laying imposts is taken from the States and given exclusively to Congress. One of the strongest objections to the constitution was, the collision which might arise between the State and Federal Governments, in the exercise of their respective powers of taxation, where they were concurrent; but in this particular mode of lay-

ing duties on imports, and in this only, the Federal Government having the power exclusively, there is a complete obviation of all difficulties which might arise from colliding jurisdiction.

The advocates of this bill have told us that we cannot much longer get on without the aid of internal taxation; that sooner or later we must come to that point; and that, therefore, we had better do it at once. My first remark in reply to this is, that if, as I have attempted to show, the system of impost be a better and more equal one than that of internal taxation, then the argument which would persuade us to adopt the latter, by anticipation, because we might hereafter be obliged to do it, is precisely like persuading a man that, because he must, in the course of nature, inevitably die, it would become him to anticipate it by his own act, in the commission of suicide. But, say gentlemen, the revenue from imposts is unequal to the exigencies of the Government; and how do you propose to remedy it? Why, it would seem, by the passage of a bill, the effect of which must be, as I shall presently attempt to show, to diminish that very revenue which gentlemen say, even now, is insufficient. The only way by which this apparent inconsistency can be explained is, that this subject is discussed as if a system of internal taxation were now in being; but I call upon gentlemen to remember, that whatever their wishes or opinions as to the relative merits of the two systems may be, the impost system exists now in point of fact, whilst the other does not; and I will add my wish, that it never may, until it shall become indispensably necessary, not by our forced legislation, but by the natural course of events. I have just said, that I would attempt to show that the passage of this bill would diminish our revenue; I will now redeem my pledge, or endeavor to do so.

The first proposition which I shall lay down is this—that it will lessen the amount of importations upon this obvious principle, that any given quantity of the exportable produce of the land and labor of the country will purchase fewer commodities at a higher, than it would at a lower price. That the imposition of the proposed duties will raise the price of the commodities imported, no gentleman has questioned. Our exportable produce remaining the same, then, will purchase less than if the duty were not raised; and, consequently, the quantity of articles must be diminished. If it be said that the increased duties will compensate for the diminished consumption, I answer, that, with the exception of a few mere luxuries, the great bulk of imported commodities is consumed by that portion of our people, who, constituting the middle class of society between poverty and wealth, are, with various degrees of property, only independent or moderately rich. Though the very wealthy man might still continue to purchase his luxuries as before, without regard to price, yet, amongst the great class which I have mentioned, (the very bone and sinew of the community,) there is a spirit of prudence and calculation which makes them value their comforts and pleasures at a certain price only, beyond which they will not go. What that is, it is impossible to say, with any thing like precision, it being a mere question of quantity, of more or less; I venture, however, to say, that the duties now proposed would pass this limit, and consequently cause a great diminution of consumption, and with it a diminution of comfort to our citizens, and of revenue to the Government.

I shall now endeavor to prove that it is in violation of the general principles of political economy to build up a manufacturing system by the forced means of legislative interference, and that there is nothing peculiar in the situation of this country, whether considered in relation to its political character or otherwise, which makes our case an exception to the general rule. It would seem, however, from what has been said by the Speaker of the writers on political economy, that he reposes little or no confidence in them. He has said that we derive our visionary theories from European writers, whom their own Governments do not acknowledge as guides in legislation; thus, that gentlemen, instead of meeting and refuting the doctrines of Stuart, Smith, and others, has at once put them under the ban of his denunciation by a single contemptuous remark. Indeed, it might be said of him, as was said of another distinguished man upon another occasion, "that he put to flight a host of syllogisms by a sneer." After all his disparagement of European writers on the science of political economy, I must be permitted to say, that, if their manufactures of cotton and wool exceed ours as far as their works upon this interesting subject surpass ours, then indeed we cannot sustain the competition to which we aspire by any encouragement which we can afford; and though their Governments do not follow their counsels, that surely is no reason why we should not, if they be in themselves correct, and calculated to enhance the prosperity of the country. As well might it be said, that we ought not to respect any of their principles of ethics or morality, such, for example, as the doctrines of Paley or Rutherford, because they do not pursue them. There is, it is true, no demonstration in the sciences of morals and politics, as there is in the mathematics; but there are, in each of those sciences, certain truths so obvious in themselves, and so universally assented to by mankind, that they almost rank in the class of axioms, and constitute the basis of reasoning in questions of this kind; such, for example, is the principle, that the market price of commodities is regulated by the proportion between the actual demand and supply. It is to principles as well settled as this that I shall resort in the course of this argument, though they may even be drawn from European writers. Without further remarks, I will proceed directly to the general reasoning against legisla-

tive interference to create and sustain a manufacturing system.

The strength of every country consists in the number, the character, and the wealth of its population. First, then, let us compare two countries, the one agricultural, and the other manufacturing, in relation to numbers. The very object of agriculture is to procure the means of subsistence; but it is agreed on all hands that the quantity of subsistence is precisely the measure of the extent of population, since without it they cannot exist; of consequence, other things being equal, the country which is agricultural, and which not only makes its own subsistence, but a surplus for exportation; which upon occasion, may be applied to supply the deficiency of any year, will be more populous than one, a great part of whose labor is applied to manufactures, and which, therefore, in ordinary years, scarcely makes a sufficiency, and, in any case of deficiency, depends entirely upon a foreign supply, for the very means by which to support life. If it be said that this reasoning does not apply to the present situation of the United States, I answer, that it is the province of the statesman, not to legislate merely for the present moment, but to look forward to that state of things, which, according to the course of human affairs, may fairly be considered as inevitable; and, according to all experience, the time will come when it will apply to us with full force as well as to other nations. When, for example, the manufacturers, together with their families, shall bear a large proportion to the remaining population; for let it be remembered, that while food only increases, arithmetically, population increases geometrically; an idea which I shall have occasion to dwell upon more at large hereafter.

Let us now compare the same two nations in relation to the character of their population, whether affected by moral or political causes. The agriculturist, in this country, cultivates his own farm; he looks only to the beneficence of the Deity, and the sweat of his own brow, for the maintenance of himself and family; by his own will he regulates his conduct; he knows no superior except those who are clothed with the authority of the law; he thus acquires the proud spirit of an independent freeman; he has the port, the stature, the dignity, of a man. On the contrary, the manufacturer has no source of revenue but his labor, which he must constantly sell to a master; not his own, but that master's will, is the rule of his conduct. While independence, then, is the characteristic of the agriculturist, mere servility is that of the manufacturer. This is the difference in the moral effects; that in the physical is just as striking; the agriculturist, from the very nature of his pursuits, enjoys the light and air of Heaven, in all its purity; he has his regular periods of labor and rest; he has that strong and healthy constitution which results from these. The manufacturer, on the contrary, under the orders of an avaricious task master, scarcely knows the distinction of day and night. The hammers of Birmingham are never at rest; the wheels of Manchester never stand still. They are pent up in task-houses during the day, amid noxious effluvia, and crowded in huts at night —that is, such of them as are allowed to sleep; for a part, in alternate succession, pursue their toils during the night. Such is the condition of the adults engaged in these establishments. That of the children is, if possible, still more deplorable; taken at an early period from their parents they are cut off from the sacred morality of the hearth, and lose all benefit of parental instruction, which instils the lessons of wisdom into the mind, and morality into the heart; thrown together into a crowd, where there is a promiscuous intercourse between different ages and sexes, fatigued with a degree of labor which they can scarcely bear; without the aid of moral or religious instruction, they grow up unfit to be members of society, and qualified only to obey the will of a master themselves, and to transmit that wretched inheritance to their posterity. How different the condition of the children of the agriculturist! The virtue and independence of the parent are learned and practised by them, and they become qualified to act with propriety in all the various relations in which they stand bound to society. But, sir, I will not pursue this subject further. I refer the committee to the feeling description of those who have written upon it, and particularly to that of the celebrated Aikin.

Another decided recommendation of the agricultural system over the manufacturing, is this: the interest of the agriculturist is precisely identified with that of the community; that of the manufacturer is not only not identified, but is, in some degree, opposed to it. The interest of the manufacturer is to narrow, as much as possible, the competition in the sale of his commodities; the interest of the community is, obviously, to widen that competition. "Profit, too, is naturally low in rich, and high in poor countries; and it is always highest in countries which are going fastest to ruin." In a political point of view, then, it is well worthy of consideration how far it is good policy to create and sustain, by artificial means, a class in society whose interests are thus, in some degree, necessarily opposed to those of the rest of the society. I do not mean to say, that manufactures are not useful, and even necessary, to agriculture; but I do mean to contend, that it is better to let others manufacture for us, as long as we can appropriate our capital in a way which will be more profitable; and I do mean to contend, that, if Government attempt to judge of this, it will be perpetually subject to error, and may, by the aid which it affords, force a comparatively unprofitable appropriation of the capital of the country; whereas, if it be left to individual sagacity, the thermometer will scarcely mark the variations in the temperature of the weather with more accuracy than this will the variations in the

rate of profit; and, consequently, we have the utmost security that capital will be applied to manufactures, whenever it ought to be so applied; that is, whenever, by such an application, it will be more profitable than by any other. And what equivalent are we promised for submitting to a measure subject to so many and such strong objections? Why, it is said, that, if we will protect manufactures, as soon as they shall be firmly established, they will afford us a revenue from excise. In the first place, I answer, that, if that promise should be realized, the period would be altogether uncertain, and, in the mean time, there would be an acknowledged deficiency of revenue arising from impost; and further, if I have shown that an appropriation of capital in that way would be less profitable, there would be an actual annihilation of national wealth, to an amount equal to the difference between the profit arising from that and a different appropriation. It is said, however, that manufactures will become cheaper than they now are: this is a downright inconsistency; for, at their present price, we are loudly called upon to save them from sinking, and yet, at the same moment, we are told that they will actually be sold at a price, hereafter, less than that for which they now sell, and a sale at which, it is said, will produce ruin. There is no inducement, then, in this promised equivalent. I have already shown that the proposed measure is wrong, upon general principles, and I will now attempt to show, not only that there is nothing peculiar in the situation of this country which would require us to depart from these general principles; but that, on the contrary, whatever distinguishing peculiarity there is, either in our Government, people, or country, it contributes rather to fortify than to weaken their force, and to render them emphatically applicable to us. Our Government is Republican; next to the virtue of its citizens, equality is one of the surest foundations upon which such a Government can stand. Equality of rights is actually attainable, and is practically enforced; but equality of property, also, as far as it can be effected by constitutional and legal means, is also greatly desirable; it is with a view to this result, that the principle of primogeniture has been abolished in the several States, which gave to one member of a family the whole real estate; it is with the same view that the principle of entails has been abolished, which perpetuated the estate, so given, in the particular person, and his heirs in a particular line. These principles are two of the strongest pillars upon which a monarchy rests, because they concentrate the property of the country, and with it the power and influence of a few; but the very reverse of this is the proper policy in our Government; with us not concentration, but the most extensive and universal diffusion is the great desideratum; the very same property which, when broken into small parts, spreads plenty, comfort, and independence, over a whole country, when accumulated in the hands of a few, begets the extremes of great wealth and great poverty; by this, one portion of the society is too much elevated, the other is too much depressed; the one feels arrogance, the other submission. In such a state of things, the force of political institutions would be continually impaired by the aristocracy of wealth. Inasmuch, then, as I believe that the effect of this bill would be to produce this concentration of wealth, so much to be reprobated, and thus place the General Government in the attitude of counteracting the policy of the States, which, as I have said, consists in promoting a diffusion of property—in this point of view, I think there is a strong political reason, derived from the nature of our institutions, in aid of the general principles which I have been discussing.

In relation to our people, they have, from a combination of circumstances, the most important of which, is the immense quantity of new and fertile land, been always accustomed to the pursuits of agricultural life. The force of habit, then, co-operates with other causes to give them a preference to that kind of labor; but I have already endeavored to prove that it is more contributive to the health of the body and the independence of the mind. If these positions be correct, and especially the last, agriculture is a pursuit which, more than manufactures, fits the people for the Government under which they live. Surely it cannot be the part of a statesman, by legislation, to hold out an inducement to the people to abandon that pursuit which qualifies them for the station in which they are placed by the social compact under which they live; not to perform the part of mere servile obedience, but to fill the station of independent freemen, who, by their representatives, themselves make the laws by which themselves are governed.

In relation to our country, let it be remembered that Europe, particularly the manufacturing part of it, is well peopled, whilst our population is extremely sparse. The population of England, including Wales, in 1803, was 169 to the square mile; in France it was 174 to the square mile. In 1810, the population of Connecticut, the most populous State in the Union, was 56.04 to the square mile; that of Virginia only 13 and a fraction; and, admitting the superficies of the United States to be two millions of square miles, the whole population is only three and eighty-three hundredths to a square mile.—[See Seybert's Statistical Annals.] The whole land of England and Wales is estimated by Bristed at 38,500,000 acres. I have already said, that Seybert estimates the United States at 2,000,000 square miles; this, reduced to acres, amounts to 1,280,000,000 acres of land. Now, sir, it seems to me, that it would be almost sufficient to state the relative population and territory of the two countries, to convince any man that what may be a correct policy in relation to England, would be highly improper for us to pursue.

The population of England and Wales, in

1803, exceeded that of the United States in 1810, and yet the territory of the United States is more than thirty times that of England and Wales; whilst the population of the United States, to the square mile, is more than forty times less, including our whole superficies. Manufactures suit a redundant population, with a confined territory; such is the case of England; they do not suit a sparse population and a redundant territory; such is the situation of the United States. Manufactures, if not forced into existence by artificial means, are the natural result of an overflowing capital; it never can be said that the capital of any country can be of that kind, whilst there are millions and tens of millions of acres of the most fertile land yet uncultivated; such is the situation of the United States. Whilst there is land of this sort to cultivate, its cultivation is the most profitable appropriation of capital. Take, for example, a quarter section of land at its present price, amounting to two hundred dollars; let but one-half of this be well cultivated, and I know of no application of the same capital, unconnected with mere speculation, which would yield an equal result; the mere maintenance of the family, which would be derived from it, exclusive of the produce which might be sold, under ordinary circumstances, to an amount equal to the capital invested, would be more than the profit of any other appropriation with which I am acquainted. What is true of one quarter section, is equally true of every one in the United States, as long as one of good quality remains in an uncultivated state. There is an argument derived from the influence of machinery upon manufactures, which I beg leave to present to the committee, because it seems to me to be entitled to very great weight. To make the application, I will first present a few facts. In a note to Lauderdale, on Public Wealth, page 294, it is said, that a machine at Derby contained 26,586 wheels, and 97,746 movements, that work 73,726 yards of silk at every turn of the wheel; that is to say, 318,504,960 yards in twenty-four hours. In the same book, page 301, it is said that, in Scotland, it was estimated that a still could be discharged about once a day. In thirteen years afterwards, they had arrived at such perfection as to discharge it almost twenty-two times in an hour—that is, upwards of five hundred times as often. These statements appear to be such as almost to startle credibility. Let us take some much more moderate, and which will answer all the purposes of my argument. In Ganilh's Political Economy, it is said that Sir Richard Arkwright's invention of the cotton-spinning machine shortened that kind of labor by two-thirds, and rendered it twenty times more productive than it had been before. In a supplement to the Philadelphia address of 1819, it is said that a British spinner can, by the intervention of labor-saving machinery, spin as much by one person as requires in India sixty persons. Finally, in the same book it is said, upon the authority of a British writer, that the whole laboring population of Great Britain has its powers multiplied fourteen times by machinery. The author makes an estimation which would reduce it to about twelve-fold. The general purpose for which I have made these quotations is this—to present to the advocates of this bill a dilemma from which it seems to me they cannot extricate themselves. The first part of it is, that, if we have not the advantage of labor-saving machinery, it is utterly impossible to sustain a competition against the foreign manufacturer; the other is, that, if we have that machinery, our other advantages are such that our manufacturers do not need any further protection from the Government. The first proposition is, that it is impossible to sustain a competition, unless we have the advantage of machinery. If I were to take the case of the still, which I have stated, and rely upon that, it would be so striking that the mere statement of the fact would supersede the necessity of argument or comment; for all will agree at once that distillation, carried on by a still, discharged once a day, could not maintain a competition against that carried on by a still discharged five hundred times a day; that is to say, could not maintain a competition where the odds were five hundred to one.

The profits of manufacturing had been such during the war, that many were allured to embark in it, and a great portion of them without an adequate capital of their own, but deriving resources from the facility of bank accommodations. The great depreciation of the currency, on account of its excessive quantity, caused every description of property to sell extravagantly high. This would have been nominal only, if the currency had continued of its then value; but its subsequent great and actual appreciation has fatally proven that, what was only a nominal high price in the commencement, has turned out to be actually so, to the ruin, or at least embarrassment of thousands. Thus, a considerable portion of the investments in manufacturing establishments was made whilst every thing was at or near the acme of extravagant price, and in many instances, too, upon a borrowed capital. This was not confined to manufacturers; every interest in the country, and amongst others, the agricultural, has been deeply affected by this state of things. Whenever, from any cause, the circulating medium of a country begins to undergo a rapid depreciation, the immediate and necessary effect is, that every kind of property begins to be represented by more dollars, the number of which increases as the depreciation increases. This is almost universally considered a rise in the actual value of property, and hence a spirit of speculation is awakened amongst all classes of the community; purchases are made, contracts are entered into, as if the present prices were not only to continue, but to increase. Soon, however, depreciation reaches its height, and, according to the course of human affairs, the

currency begins to move in a contrary progress; appreciation now marches with as gigantic strides as depreciation had done before; and the consequences are seen in the ruin of thousands, who, but yesterday, as it were, seemed to be in a tide of prosperity. The condition of the United States is a practical commentary upon this reasoning. Within three or four years past, the farmer got two dollars per bushel for his wheat; the cotton planter thirty cents for his cotton; the tobacco planter from twenty to thirty dollars per hundred for his tobacco; contracts and purchases were made, predicated upon this state of things; lands which, a few years before, had sold at ten and fifteen dollars per acre, now sold for twenty and thirty; slaves, who had sold at four or five hundred, now sold for eight hundred or a thousand; and so of all the other transactions in society. The great bulk of society cannot distinguish between a rise in price, which is the result of depreciation in the currency, and that which proceeds from actual appreciation in the value of property.

We have been told, however, that England has derived her immense wealth from manufactures, and we have been, therefore, much pressed with the weight of her example. I have already endeavored to show that in this country a different appropriation of capital is more profitable, and that, therefore, it is impossible to increase the national wealth by diverting it to a less profitable one. If I have succeeded in this, whatever may be the case in relation to England, her example is not for our imitation. I beg leave, however, to tell gentlemen that, although England has derived much of her boasted wealth from manufactures, yet she has derived a large portion of it from various other sources; she has had, for a long series of years, with the unavoidable interruptions of war only, the most extensive foreign commerce in the world; she for a long time had the monopoly of the commerce of the United States, then her colonies; she now has it of her American and West India colonies; but, above all, she has derived immense wealth from her East India possessions. Whatever may have been the fate of her East India Company, the nation itself, *per fas aut nefas*, by monopoly and oppression, have been much enriched from that extended empire, embracing a native population of forty millions of people. Let us for a moment inquire into this somewhat in detail: Colquhoun, a modern British writer, informs us, that the gross revenue of the East India Company's possessions amounts to upwards of £18,000,000; the same writer states that there are 6,000 British people, who, as civil and military officers, receive salaries of from £200 to £10,000. Besides the East India Company, there are in their territorial possessions 4,000 free British merchants; from salaries, and from the profits of the free trade, large sums are accumulated by individuals, which find their way to the mother country. It is true, that almost all the gross revenue is expended in the Company's possessions; but I refer the committee to the history of that suffering country, to conjecture of how much they have been plundered by the natives of England, who return to their native land to riot upon the spoils which their rapine has produced. I speak upon the authority of Colquhoun, when I say that England has been much enriched from that source. But, after all, what is this boasted wealth of England? Is it distributed amongst the people at large, so as "to scatter plenty over a smiling land?" No, sir, it is collected into the hands of comparatively a few; in the language of another, "it sprouts into wens and tumors, and collects in aneurisms which starve and palsy the extremities."

Sir, the emblem of England is a painted sepulchre—fair without, but carious within. View that country at a distance, and you see a powerful navy, an extensive commerce, and a great system of manufactures, promising almost boundless wealth; but lift the curtain—take a nearer view—and you behold much more to regret than to admire. Such a view will present to you the following picture: the country mortgaged as it were by a debt, the mere interest of which is greatly more than the principal of our national debt; this interest paid to the public creditors, who are less than one million in number, whilst the whole population of Great Britain and Ireland is between sixteen and seventeen millions. To pay this interest and the current expenses of Government a revenue was raised for the year 1819, (which for that single year was £54,000,000 sterling,) equal in our currency to considerable more than double the whole capital of our national debt, and then leaving a deficiency of £14,000,000. The taxes to meet this enormous expenditure, supposed to be at least four pounds sterling to every man, woman, and child; the poor rates for 1815, estimated at £7,800,000, equal to $34,632,000 —a sum considerably larger than the whole annual expenditure of the United States Government, including the Sinking Fund of $10,000,000—the paupers estimated as being between a fifth and a sixth part of the whole population of England. Such are some of the outlines of the picture which England presents. There is indeed much wealth in the country, but so distributed as to make extreme riches and extreme poverty—a state of things which I ardently hope never to see existing in the land which gave me birth.

Gentlemen have conceded, that the proposed system would be improper, if it was not that the nations of Europe, and especially England, have pursued the plan of positive prohibition, or high duties almost amounting to prohibition, towards us, and they call upon us to imitate their example. The first answer to this is, what, I believe, has been already urged, that it would be strange conduct, because foreign nations have injured us by prohibition or high duties, we should, therefore, injure ourselves

still more by creating a monopoly in favor of a part of our own citizens, at the expense of the rest. But let us now trace the course of the English policy, and the reasons which led to it, together with the point at which it has now arrived, and I think I shall be able to show that it ought to be avoided, not pursued. Governments as well as individuals seem, at times, to have their hobbies; perhaps there are few subjects in relation to which the hobby has been oftener changed than that of political economy, or the art of making a nation rich; at one time, the commercial or mercantile system is the fashion of the day; at another time, the doctrine of the French economists prevails, that agriculture is the only source of wealth; now it seems that manufactures alone can save us from ruin and bankruptcy. But I return to the English policy, and the reasons which led to it. During the prevalence of the mercantile system, the general idea was, that wealth consisted in gold and silver, and that a nation having no mines could only get them by exporting more than it imported. By the use of this kind of reasoning, persons interested in the monopoly of the home market induced the Parliament either to prohibit or lay heavy duties on importation; and those concerned in the foreign market also prevailed, so as, in some instances, to get bounties upon exportation. For some time this was submitted to, but, at last, the country gentlemen began to perceive these operations, while they benefited certain classes, were directly at their expense. With a view, then, to counteract their effects, they have, after struggling at different times, procured, as offsets, the following provisions: the total prohibition, except from Ireland, of cattle and salted provisions, an exclusion of all foreign corn, unless when the scarcity is such as to raise the price to eighty shillings per quarter, a monopoly price, and a bounty upon the exportation of their own corn. Now, sir, I ask the committee whether a system of policy can be worthy of our imitation, which, setting out upon entirely false principles, creates a monopoly in favor of one part of the community at the expense of the other, and then seeks to restore the equality by a set of countervailing provisions in favor of the injured party? Equality is the desideratum; you may, after having made one scale much heavier, restore the equilibrium by putting an equal weight in the other; but, if you put a weight into neither scale, the equilibrium has never been destroyed. Thus it appears that all which can be hoped for, after piles of regulations as high as Atlas, would be, by legislation to restore an equality, which, by legislation, we had destroyed. My course, therefore, is, to remain where we are, and not disturb the balance because we may afterwards restore it; if, however, we must imitate the English system in part, I hope gentlemen will give it all; a part of which is a bounty upon the exportation of their corn. If gentlemen will give us a sufficient bounty on the exportation of our breadstuff, that would restore us to our original equality. But, it is said that England imposes a duty upon our wool. Do not gentlemen see that, unless that duty is drawn back, upon exportation, to the United States, it operates to the advantage of the domestic manufacturer, by increasing the cost of the British article? And, if it be drawn back, then it is entirely neutralized. England, also, say gentlemen, gives her manufacturers a drawback upon exportation; and, in some instances, a bounty. It requires only to define the terms drawback and bounty, to see that there is nothing in this complaint. The drawback upon the English manufacturer is, where an excise duty is imposed by the British Government, which raises the price at home; but, as they cannot regulate the foreign market, therefore, upon the exportation, they draw back this excise, in order that their people may come into foreign competition, not encumbered with this increase of cost. The case of the bounty is, if possible, still plainer; it is given only where, without this aid, the article could not, upon exportation, withstand a foreign competition. Any article thus situated, it is obvious, cannot injure the American manufacturer; that is, if the bounty be not too large; and, if it be, the British Government has injured its people in favor of a particular class, and then the argument is, that we must inflict a like injury upon the American citizen, in favor of the same class; an argument, the weight of which it is submitted to the committee to appreciate.

Mr. HARDIN moved to postpone the bill indefinitely, and the House adjourned.

FRIDAY, April 28.

Revision of the Tariff.

The House then took up the bill to regulate the duties on imports, and the amendments reported thereto by the Committee of the whole House.

Mr. HARDIN'S motion to postpone the bill indefinitely being under consideration—

Mr. H. rose and delivered, in a speech of nearly two hours in length, his sentiments in opposition to the bill.

Mr. MCLANE, of Delaware, addressed the Chair as follows:

Mr. Speaker: I am too sensible of the value of time, at this protracted period of the session, to task the patience of the House longer than may be absolutely necessary to submit the views I entertain of this subject. When efforts so zealous, urged as they are both by the force of individual character and best talents of the House, are made to defeat the principal object of this bill, I owe it to that quarter of the country which I represent, and which is deeply interested in the result of this question, to contribute my aid in behalf of a measure which I believe is calculated to mitigate the national distress, and promote the national prosperity.

Besides the general principles which are involved in this subject, there are other considerations, to which I will beg leave first to refer, why this motion should not prevail.

I am free to say that I do not entirely approve of the bill in its present form. It embraces too many subjects, and presents a combination of objects which, I fear, will counteract, in the extent of its range, some of the benefits designed to be afforded to that portion of the national labor which most imperiously requires to be cherished. But, though it may be in some measure true, that the bill proposes more than the state of the country absolutely requires, the present motion does not propose enough. If the bill is too large, and calls upon us to do too much, it is no reason why we should do nothing. It is our duty to modify it, and adapt it to the wants and condition of the country.

And, though it be true, as has been urged, that we are now near the close of a protracted session, we should remember that it has been characterized by few of those measures to which the anxious eyes of the nation have been constantly directed, and that the subject now before us is one neither of the first impression, nor hastily got up. It has been before the people and the councils of the country for many years. and forced upon the reflectionof the least considerate, by the pressure of the private and public distress which this bill proposes to relieve. The subject underwent a full investigation when the existing tariff was established; and the great error at that time was, that there was not afforded a degree of protection commensurate with the evils. The inadequacy of the existing tariff has been fully tested by past experience, and throughout the present session our powers have been invoked to supply its defects. We have already expended a week in investigating the details of this bill, which will be worse than loss of time if we separate without coming to a decision. If the protecting arm of the Government is to be extended to the national labor, the policy should be announced without delay; otherwise it may prove ineffectual for the object. Considerable capital is already embarked in manufacturing establishments, and if it be our interest to preserve it there, and to cherish its employment, it is indispensably necessary that we should inspire the capitalists with confidence in our policy, to prevent them from withdrawing it, or to save it from actual loss. If we fail to do so now, the remedy may be administered when the disease has sunk below its efficacy. A determination to foster this particular employment of the national capital, may prove effectual now, even with an inadequate tariff, when, without such a determination, it may be impossible hereafter to repair the ruins which might have been prevented by seasonable aid.

I am willing to unite with gentlemen in paring down this bill to reasonable limits, provided it shall be allowed to give abundant encouragement to the principal articles of public necessity, and afford ample relief to the exigencies of the national labor; but I will take it as it is, rather than get nothing. It is our duty to relieve the distress which pervades the country, and there is much greater danger, in my opinion, that we shall do less, than more, than is necessary.

I beg leave, also, to divest this subject of the particular character with which it has been ingeniously attempted to stamp it. To associate it with sectional interests and particular classes, is treating it unfairly, and resembles much more the indulgence of narrow prejudices than the pursuit of a liberal policy for national purposes. It is calculated more to increase a common evil than to promote a general good, or to conduct us to an enlightened decision. The object is purely national, embracing the best interests of all parts of the community. It is to promote a common end, for a common benefit; to cherish the national labor and capital wherever they may be found, and to conduct them to profitable and national results. If the encouragement of that portion of our labor which can be employed in the manufactures of the country, will not do this, it ought not to be afforded. I claim for them no particular aid beyond what may contribute to the good of the whole mass of our national industry.

Having said thus much, Mr. Speaker, in regard to the objections against the tariff as a whole, I will proceed now to consider the general principles upon which, I think, its great objects may be maintained and recommended to our adoption.

I was fully aware of the principles of the writers upon political economy, which have been so earnestly and ably relied upon by the opponents of the tariff; and though I am by no means disposed to involve in a common censure these principles and their authors, they appear to me to be unsafe guides in this discussion, where they are not sanctioned by experience, and tested by the practical operation of national policy. Much of the numerous treatises upon political economy consists in plausible theories, founded upon a state of things which, in fact, have no existence, and, with regard to the most of these theories, the greatest difference of opinion prevails among the authors themselves. Among these numerous theorists each is the stout advocate of his own system, and the world has not yet finally decided between them. One contends that agricultural labor is the only profitable source of wealth, and that manufacturing capital is unproductive; this is denied by another, who advocates some other favorite branch of industry. A third is the advocate of commercial capital; another prefers the home trade; and the fifth contends for the superiority of a foreign commerce; so that scarcely any two of them agree, when they come to carry their respective systems throughout the details, and are yet litigating many of the principles which have been so confidently relied upon in this debate. Sir, it is the course of true wisdom

in us to leave them to their employment, and adopt those principles only which we find in practical and successful use. With these as our data, we must adapt our measures to our own wants, and the actual condition of the world.

Now, sir, whatever contrariety of opinion may prevail, in regard to the mass of the theories upon this subject, there is a common foundation for them all: and that is, that the source of individual and national wealth is labor, and that the degree of the former will be in proportion to the activity of the latter. We may also disagree as to the particular mode of employment in which this labor will be most productive, but all will agree that it must be employed in some way. It must be made active; and, if necessary, must be stimulated to activity. The evils of an unemployed, inactive labor, are always in proportion to its capacity, and all the vices which follow in the train of an idle population will soon chastise a nation whose councils are inattentive to the employment of its labor. I am not the advocate of any particular branch of labor. I believe it is best, in general, that it should be diversified. I can have no idea of a nation purely agricultural, commercial, or manufacturing. Their interests are mutual, and the advantage of each is always promoted by encouraging, to a certain extent, the prosperity of the others. I am free to say, however, that, in the United States, the preference should be given to the agriculture of the country. This should be the basis of our strength, the great fountain of our resources, and in the nature of things it always must be so. There is, therefore, no design to change the agricultural character of the nation into a manufacturing one, as has been so seriously deprecated in this debate. Such fears are altogether imaginary. At least nine-tenths of the power and influence of this country are agricultural, and it is is utterly impossible that a course of policy can be pursued, for any length of time, which shall, in any degree, subvert that interest. The agriculturist understands his interests, and will not be slow in resisting any serious encroachment upon them. In a popular government like ours, his resistance will always be prompt and effectual. Even in England, extended as are her manufactures, the agricultural interest is always predominant; and there is no instance, in all the struggles with regard to the grain laws, and other measures in which these two great interests have been opposed, that the agriculturists have not prevailed.

It is clearly among the first duties of a nation to make the labor of its citizens active, and direct it to the most profitable results. Not by undue means to stimulate any particular branch of labor, to the ruin and injury of any other; but to stimulate the aggregate of its own against the aggregate of foreign labor, and to protect any particular branch of its own labor against the rivalship of foreign policy. If a nation expects to become wealthy and powerful, it must exert itself to supply its wants by its own labor, rather than depend upon foreign labor for articles of the first necessity.

The principle is not only sound in theory, but is that which is in practical operation in every nation which understands its own interest. They sell all, and buy nothing with which their own labor can supply them. Let us look to the example of England. She is agricultural, commercial, and manufacturing. The state of her agriculture is equal to that of any part of the globe; her manufacturing interests more extensive than in any other. Her policy uniformly has been to cherish her manufacturing labor, as auxiliary to her national wealth, and to resist all foreign competition. It is manifested in the earliest dawnings of her history. She began with encouraging the manufacture of the coarse articles which constituted her prime wants, and afterwards followed up her policy with an unceasing assiduity, until she not only shielded her own labor from the competition of other nations, but in a great measure crippled their labor at home, and became the source of supply for all the world. Have we not seen the effects of this policy diffusing themselves throughout every branch of her industry, and over every part of her empire, until by this means there has been reared up a mass of wealth and power almost irresistible? It is true, we have been referred to England for an example of the evils of what has been termed the manufacturing system and her national debt; her insurrectional temper and mass of pauperism, have been ingeniously urged in the debate. But these are not the effects of her manufacturing system. They are the result of the expensive wars in which she has been perpetually involved, and the insupportable weight of taxation consequent upon them; of a policy which has kept her continually embroiled, by intermeddling in the disputes of others, when she had none of her own on hand; a policy to which she would long since have fallen a victim, but for those abundant streams of wealth which her active labor continually poured into her lap, and which she so lavishly drained in the cause of her unhallowed ambition. It does not follow that we are to imitate her in these respects, because, like her, we afford protection to our home labor; and I cannot believe that we shall be likely to beget treasonable insurrections by rewarding the occupation of the citizen with ease and cheerfulness. Insurrections are the fruits of an idle, discontented population; they may be produced by the neglect, but not by the watchful protection of the Government. The same policy was early adopted, and has been ever since pursued, by France, Holland, Prussia, Italy, and many other powers of Europe; and all who are at all conversant with their history, know that similar effects proved the wisdom of affording national encouragement to national labor. The famous continental system of Bonaparte shows that he early discerned this real source of national wealth and power. When meditating the destruction of the British

empire, he knew very well the source of her strength, and he wisely conceived the policy of drying it up. Had his ambition been tempered with some portion of patience, and he had consented to wait a few years for the gradual success of his policy, it would have been more omnipotent than his arms. His example, however, has not been lost upon the other nations of Europe; and though they did not yield to his schemes, Russia, and almost every other nation, excepting Spain and Portugal, have voluntarily adopted it. The principle of the Russian tariff is to receive nothing from abroad that she possesses skill and labor to make at home. Spain and Portugal are the victims of a different policy. They adopt the principles which are everywhere written and nowhere practised. Spain stands a solitary beacon to warn us of her fatal example, which buried the highest spirit and best capacity in the miseries of idleness and luxury, and drove her population to seek a remedy through the dangerous paths of revolt and insurrection.

The system is not a new one in the United States. We have always deemed it our duty to protect the home labor against foreign competition. Our duties upon the agricultural products of foreign countries were not imposed for purposes of revenue, but for the protection of our own agricultural industry. And although gentlemen may be disposed to regard these regulations lightly now, because of the peculiar condition of foreign countries herctofore, they are, nevertheless, indicative of the sense we entertain of our true policy; nor should it be forgotten that East India cotton is already imported into the United States cheaper than it can be procured from the Southern States; and that the day may not be distant, when the competition in this article will be much more formidable.

We have adopted the same system for the protection of the commercial enterprise of the country. The heavy foreign tonnage, the high rate of duties upon merchandise imported in foreign vessels; bounties allowed on the exportation of fish; tonnage and drawback granted to fishing vessels; the exclusion of foreign vessels from the coasting trade, and the entire system of navigation laws, are evidently designed to give a preference to American ships and enterprise, over those of foreigners. I do not refer to these in the spirit of complaint; far from it; the wisdom of the policy is apparent in its effects. Nor do I refer to them to show that, because we have done much for commerce, we should, therefore, do something for manufactures; but I refer to them, as demonstrating the utility of the doctrine, of leaving things to regulate themselves; as evincing the necessity of national protection for national labor, and of counteracting the effect of foreign competition upon our home enterprise, in whatever channel it may be employed.

Before the establishment of our independence, we relied for our supplies principally upon the labor of England, whose policy it was to preserve that state of dependence, and discourage all efforts in her colonies to manufacture for themselves. But the successful termination of that memorable conflict defeated her policy, and gave a new spring to our enterprise, and the same spirit by which it was achieved dictated a resort to our own resources to give it perpetuity. The subject was almost the first that occupied our national deliberations; and the report of the illustrious man who then presided over the treasury, Mr. Hamilton, portrayed with a prophetic hand the true course of national policy. It would have been pursued long ago, but for those desolating wars which soon afterwards broke out in Europe, and which have continued ever since, until very recently, with scarcely any intermission, and cramped both the agricultural and commercial enterprise of those nations. Their population was drawn from these employments to man their fleets and fill the ranks of their armies; they had little time for the cultivation of the peaceful arts, and we became their growers and carriers. In such a state of things, the population of the country, at that time, found full employment in the agricultural and commercial pursuits, and in the multiplicity of handicraft and other employments, to which a flourishing state of those two great branches of industry always give rise.

The demand abroad exceeded our means of supply; we received high prices for all our produce; our commerce penetrated all parts of the world; every man found constant demand for his labor; and the capital of the country had a brisk circulation; we exchanged all our products for the fabrics of foreign countries, under great advantages, and increased in wealth and power with an unexampled rapidity. But a new state of things has taken place. Those wars have terminated, and the world is at peace. The population which filled the fleets and armies of Europe is withdrawn, and is now turned to agricultural and commercial pursuits. We no longer possess the exclusive advantages in these respects; they neither require our ships nor our agricultural products. Their demand for our surplus produce will diminish annually; for they are rapidly carrying into practical operation their policy of creating their own supply. We all know, too, that the India trade never did, and never will, require any part of our products; it deals principally in money, and operates as a perpetual drain of our specie. If, in connection with these causes, we consider our increasing population, the result is, that our wants of Europe are augmenting and theirs of us are diminishing. As we can export less, we must raise less; we cannot employ the same quantity of labor, and all those industrious people who are occupied in feeding the demands of a prosperous state of agriculture and commerce are cast upon society without the means of subsistence. The result is, also, that, as foreign nations will not take our

surplus produce in exchange for the articles for which we rely upon them, we must go in debt for the amount, and without any means that I can discover of making payment. The balance of trade against us last year was twenty-eight millions of dollars; and every one must see that, as the wants of foreign nations are annually diminishing, this balance must increase with the same proportion. What, though it may be true, as has been contended, that the present embarrassments may be occasioned in some degree by the inordinate extension of the bank capital, and the imprudent speculations of individuals, it neither makes the evil less, nor varies the remedy. If the distress be at all ascribable to this source, it is more because of the capital having been suddenly withdrawn from circulation, than because it was ever thrown into use. No doubt much of the individual embarrassment which now prevails would have been spared, if such an accumulation of bank capital had not been made. But it cannot be disguised, that this capital had become the standard of the business and transactions of the country, and, if it had been permitted to continue, the labor of the country would in time have redeemed it. It has been, however, suddenly taken up—a stagnation of business, scarcity of a circulating medium, sacrifice of property, and want of employment ensue. The necessity for the interposition of Congress is only increased, therefore; and, as we refuse to create a national currency, the duty becomes more imperious to provide another remedy. The remedy is, to foster the national industry, to create a market at home for our surplus, and to make for ourselves what we should be obliged otherwise to import from abroad.

The degree in which the encouragement shall be afforded is, then, sir, the only remaining question. I am willing that this should be measured by the capacity of our labor, and the obstacles with which it has to contend. But it should be sufficient to produce a successful rivalship, and secure the preference in the home market. I do not advocate the policy of prematurely drawing the labor from one branch of industry to another; by extraordinary encouragement, or by high duties, to create a capacity which is to be useful some twenty years hence. But, where we possess the capacity, which, by a due preference in our own market, would supply our consumption with those articles, with the raw material of which our own country abounds; there, I contend, the duty becomes imperious to cherish the capacity, and stimulate it to the highest activity. It is in this point of view, among others, that the policy of the friends of the tariff avoid the narrow construction now put upon the visionary theories of political economists; it is not entirely giving a new direction to the labor of the country, or creating new habits or employments at a great expense upon other classes. It finds the capacity existing; it looks to the direction which men's own dispositions and the course of events have given to the labor, and finding it struggling with a foreign competition, it steps in to its aid, cherishes its resources, and secures them the scope of the home market. But the relief should be prompt and effectual. If the first tariff had gone to the extent now proposed, many of the evils of which we now complain would have been avoided. It is no answer to say that the tariff was then deemed sufficient; and if the manufacturers then believed it would be, it only proves that they desired no extravagant aid. One thing, however, is certain: that Congress did not fix the duties at as high a rate as was recommended by the Secretary of the Treasury, and the result has clearly proved its entire inadequacy.

Mr. LOWNDES said, that, after the view which had been taken of the question before the House by his friends who had already spoken, he should not attempt a systematic exposition of the grounds of his vote; because, in doing so, he would be obliged to employ arguments which they had stated more clearly and strongly than he could do. On this account his observations must be very desultory.

The question was not whether manufactures were useful; a great deal of trouble had been taken to prove what nobody denied. Nor was it even the question, whether it was the policy of the Government to encourage them by duties upon foreign importations. His friends had shown, by arguments which had not been answered, that that employment of industry which afforded the most profit to the individual would ordinarily conduce most to the wealth of the State, and that the duties or prohibitions which should direct any portion of the labor of the country to a business which it could not otherwise engage in, would usually be found to substitute a less profitable employment for one which was more so. If they are right, the present bill, which proposed a large additional encouragement to particular branches of industry, must be entirely indefensible; but, if there were doubt as to the correctness of opinions, (which they held in common with every political economist, to whose work time had given its sanction,) this doubt was enough to dissuade the House from further interference on a subject on which they had, perhaps, already gone too far. While his principal object would be to show that the encouragement already afforded was as great as could reasonably be granted, he wished, before he engaged in an inquiry into the degree of encouragement, to advert to some general principles which he supposed to be involved in the discussion.

The gentleman from Delaware, (Mr. MCLANE,) whose argument he had heard with as much attention and pleasure as any of those who most fully concurred in his opinions, had proposed no partial or sectional objects. He wished to encourage the industry of the nation; to raise the value of labor and capital employed in every pursuit. This was very patriotic, but very impracticable. We cannot create capital. We

are not magicians or alchymists. We can do no more than to produce a change in the distribution of labor among the different employments of life; and, if we increase the profits of any branch of industry by our legislation, it must be by taking from one class what we give to the other. Perhaps the general good might be promoted by such an act, (he was not now entering into this question;) perhaps the class at whose expense the interests of another class were to be promoted, might ultimately be indemnified for a temporary sacrifice; but the expectation must be utterly illusory, that a bounty could be given to any branch of industry without, at least, a temporary sacrifice by some others.

It was plain that the defence of the bill before the House implied that the industry employed in manufactures at home, should be more encouraged by the Government than that which was engaged in procuring for us the produce of foreign countries in exchange for the labor or produce of our own. The first was called the home industry, and the phrase had no small influence in the discussion. In purchasing commodities imported from abroad, we are supposed to encourage principally the industry of a foreign State. Plausible as this view might appear, he thought that even a slight examination of the subject would show that manufactures and commerce might be equally productive, and might equally encourage "home industry."

Between the results of commercial and manufacturing industry, the difference is not as great as it has been represented. In manufactures a material of inferior value receives a change in its form which adds greatly to its utility. The fabrication which is completed in our country affords a profit, which is equal to the difference in value between the raw material and the manufactured article, after deducting the expense of manufacture. In commerce a material of inferior value is carried abroad, and converted into an article (or exchanged for one) which to us is much more valuable. The conversion affords us, as in the first case, a profit, which is equal to the difference in value between the original article and the exchanged product, after deducting the expense of the exchange. If a thousand people, in a corner of our country, make among them all the provisions which they consume, and in addition to these furnish, by their industry, one hundred thousand dollars' worth of broadcloth, it does not appear that they add more to the wealth of the State than the same number of people would do distributed among the employments of merchants, sailors, and farmers, who, after supporting themselves, should exchange the surplus productions of a part of them (enhanced in value by the other part which transports and exchanges them) for the same amount of one hundred thousand dollars in broadcloth, the same value of the same article. If, by high duties or by positive laws, we could force these merchants and seamen to stay at home, and their capital and industry should produce, as before, the one hundred thousand dollars' worth of broadcloth, the article, although fabricated in the country, would not more be the result of American industry (for the purpose of this argument) than if it had been obtained by the other process of maritime adventure. It is quite natural to consider the foreign manufacture as entirely the product, and its purchase as the encouragement of foreign industry. But how did we get it? Whatever may be the amount of foreign fabrics which are spread over our country, if it be the industry of Europe which produces, it is the industry of America which acquires them.

The industry employed in commerce, then, is American industry, and the acquisition even of foreign fabrics is the result of American industry and its encouragement. He should have an opportunity of illustrating this view when he came to treat of a branch of trade which the bill before the House proscribed—he meant the East India trade. He could, for the present, observe only that the importation of foreign fabrics acquired by American industry, if they were furnished at a lower price than our manufacturers could afford to sell at, produced the same loss and the same benefit as the introduction of any new machinery, or of any simpler process which would lessen the expense of fabrication. In employing the saw mill or the spinning jenny, we acted upon the same principle of getting what we wanted as cheap as we could, and we produced the same distress in throwing out of employment the persons whose ruder industry could not stand this new competition. There was one admission, however, which he frankly made; the effect upon home industry was the same of improved machinery or of foreign trade—but the trade which benefited ourselves benefited also the country whose wants we supplied, or whose products we consumed. Let this objection have whatever weight it was entitled to. Its principle was not so much anti-commercial as anti-social.

In encouraging, then, the manufactures of the country by duties upon importation, his friend from Delaware would do the very thing which he meant to avoid—he would promote one branch of American industry at the expense of another. But whether this control of individual industry was right, he meant to leave to the arguments of his friends from Virginia. It had been said that the plan of encouraging particular branches of industry had been applied to commerce as well as manufactures. This was no decisive recommendation of it. If the nation had been taxed to encourage commerce, it was a poor indemnity, (it was not exactly a compensation of errors,) that it should be taxed for the support of manufactures. There was, too, some little difference between the two cases. Taxes for the support of Government were laid upon commerce; these were paid by the consumers of foreign merchandise, and whatever the expenses on account of commerce

may have been, they were expenses which commerce herself was made to pay. The merchant, or the purchaser of foreign articles, received, if you please, some relief from the credit which was allowed upon the payment of duties; but he certainly received nothing from contributions which were paid by any other class in the community.

Exclusive advantages, indeed, have been given to the navigating interest. The principal interest of it was the monopoly of the coasting trade. This was connected with considerations of defence, not of profit—to support not our merchants, but our navy. But what was the extent of the bounty? In the direct trade with the first navigating country in the world (England) our ships obtained, without any discrimination in the duties, the larger part of the navigation. Could the ships of foreign nations, unable successfully to compete with ours in foreign trade, have carried on the coasting trade on lower terms than our own? No other interest has contributed a bounty to commerce, and the discrimination in favor of American navigation, in the only instances in which it could be expected to operate, (if it ever operated at all,) was a discrimination of ten per cent.

The encouragement of manufactures in the mode proposed, whether the thing were right or wrong, must produce two effects—the one, that of withdrawing labor and capital from commerce or agriculture, and thus enlarging the whole amount employed in manufactures; the other, that of effecting the distribution of labor and capital among the different branches of manufactures themselves. He would say nothing of the first effect, but the second must be allowed to be one of unmixed injury. Admit that it is our interest to manufacture articles which we could procure at cheaper rates from abroad, it must be still more our interest to manufacture such as prove themselves adapted to our circumstances by being able to bear foreign competition. Our capital and labor are limited, and, in directing the largest amount of these into branches which require most encouragement, we really divert them from those into which they would flow with most advantage. Thus, every branch of industry which is entirely safe from foreign competition, and in respect to which protecting duties may be considered as nominal, must be injured by the encouragement of those which draw from them their resources of capital and labor. We have many branches of industry among those which may be expected to be first established in every country, which seem not to be more prosperous now than they were thirty years ago, nor are the articles which they furnish by any means at so low a price. What are called the mechanic arts are generally in this class. Why is this so? Because Government, in fact, bids against them; because the operation of this system of duties must be relative, and, in encouraging one branch of industry, we necessarily discourage another. Look at the iron manufactory as a proof of this. It is said to want yet further encouragement, recently as the duties have been raised, and, it is true, (he had the proof of it upon his table,) that the profits of the iron-master were greater before the Revolution than they had been for some past years; greater when our capital and population were small, and foreign competition unrestricted, than when all these circumstances were changed in our favor. To all that industry, whether agricultural or manufacturing, which is safe from foreign competition, the system of "encouraging domestic industry" can give no advantage, but it must share in the burden without participating in the profits. We exported the last year, he believed, manufactured goods to the amount of three millions. The establishments which furnished these could not gain by duties upon importation; but their expenses would be increased, though their profits could not.

Mr. L. enlarged for some time upon this subject, and attempted to show that the system of laying a high duty upon every process of manufacture must frequently produce this effect; that, to encourage a manufacture which employs but a small number of hands, and is comparatively unimportant, we may raise so high the price of an article which supports the industry and subserves the comfort of a large class of the community, as to produce general inconvenience. He appealed not to theory but to fact. We were anxious in 1816 to encourage the rolling of copper. We did so, and laid a duty upon copper in sheets. Our plan has, in part, succeeded. Two establishments have been maintained, which are said to employ fifty-four workmen; and it is computed that four thousand industrious men, the braziers who work up this copper, (whose industry even began to furnish articles for exportation,) have suffered heavy and general injury, which has extended to all their customers—to a large portion of the community.

The view on which peculiar reliance appeared to be placed for the defence of this bill was that which was connected with the alleged failure of our policy hitherto in respect both to the industry and revenue of the country. He had heard these arguments with surprise. He should hereafter make some observations upon a comparison between our import duties and those of the nations of Europe. But, was it enough to condemn our policy that it was not European? It is yet more true of internal taxes than of impost, that the nations of Europe are very far in advance of us. Their establishments of other kinds differ more than their tariffs from those of the United States. We had ventured, however rash it might be thought, "to adopt principles which had not been tested" by their experience. And, had we suffered for our temerity? Had our experiment really failed? What nation in Europe had advanced more rapidly to prosperity and wealth by the most successful wars, than had

the United States without a conquest, by the mere development and natural growth of their resources? Let their policy be changed if it must be so, but let them not be ungrateful to the wisdom which had directed, to the Providence which had favored them. The nominal value of property might change; the currency might rise or depreciate; but a population quadrupled in less than fifty years, and a production increased in a yet larger proportion, furnished no evidence to condemn the scheme under which security had resulted. Independently of the protection of property, which our laws afforded, the principal cause of a growth so extraordinary must be found in the high rewards of labor. In new countries, where land is yet not fully appropriated, labor always obtains a high price in the raw produce of the earth, and generally but a small one in manufactured articles. It has been the happy peculiarity of our situation and of our policy that the laborer has obtained as large an amount as anywhere else of the necessaries which agriculture furnishes, and a much larger one of the comforts which manufacturers provide. The statesmen may mar his condition, but cannot mend it. He cannot raise his wages estimated in the produce of the earth, and by a large foreign import he must lower his wages if you estimate them in the manufactures which he must consume.

The revenue which the impost furnishes, is paid by the consumer, and not by the merchant. It is paid in the enhanced price of the article which he buys. The gentleman from Pennsylvania seems to think, that, if, by excluding this article, he is forced to consume only the domestic fabric, the Government, which has not received its accustomed duty upon the importation of foreign, may collect the same amount by an excise upon domestic articles. "The money has not been carried out of the country." If, indeed, by ceasing to import the foreign fabric, the domestic article is furnished to the consumer at a lower price, he may pay a tax upon it—but the tax which was paid in the price of the article is not reduced by its exclusion; it is, indeed, so far as the farmer is concerned, increased—he pays more for the articles which he buys; his expenses are greater; his clear revenue less. Is there any legerdemain by which, under these circumstances, his ability to pay taxes can be increased? You tell him that he paid before a certain tax to the Government, and that he does not pay it now; he answers you, that he pays a higher tax, because he pays a higher price now than he did formerly, and that it is not his fault that this tax goes into the pocket of the manufacturer, and not into the public treasury. If, in addition to the exclusion of the foreign article, you lay an excise upon the domestic product, it is evident that the country must pay a double tax, although the Government will not receive it. It is hardly possible, however, to reason upon this subject. The ability to pay taxes must be diminished by every thing which adds to the expenses (as the exclusion of foreign goods must do) of those who are to pay them.

Mr. L. said that he would return for a moment to the consideration of the question, how far the propriety "of leaving things to themselves," was affected by the opposite system which was pursued by foreign powers. If China should by law admit all our produce, manufactured or agricultural, it is plain enough that we could not advantageously send there any which we do not now send. Indeed, he did not know that she prohibited any of our produce, but if she did the prohibition was nominal, and it was evident that its removal could not change the policy which it was our interest to pursue. But perhaps China belonged to a sphere of industry too different from ours, for the application of these principles. Would the admission of the products of our industry by the nations of Europe justify, in the estimation of the friends of this bill, the reciprocal admission of theirs? Of what avail would it be to us that England should consent to take our manufactures? An engagement to do so would "keep its promise to the ear, but break it to the sense." Our breadstuffs she takes now only when wheat is above ten shillings, when, by the by, it is most our interest to sell it. Suppose her laws permitted its importation when the price was low; would any friend of the bill avow that this policy, which would make the establishment of manufactures here a matter of somewhat more difficulty, would incline him to dispense with protecting duties in favor of our manufactures? He put it to the candor of his friends on the other side, to say whether they would consent to a treaty by which the raw produce of America and the manufactures of England should be exchanged without duty? They would not. Their objections to an intercourse unburdened by duties, would be still stronger than they now are, if Europe, in affording a better market for our agriculture, should oppose still stronger difficulties to the establishment of manufactures.

Yet it was true that those who wished to impose heavier duties or prohibitions upon foreign manufactures, alleged that, by doing so, the price of agricultural produce would be raised. It was equally true, and more strange, that a great many good people, interested in agriculture, had believed the allegation. The error was susceptible of easy refutation. If, indeed, the allegation were just, the manufacturer would gain nothing by the change. If the prices of what he buys and sells rise in the same proportion, he might as well leave every thing as it is. But the notion that the encouragement of manufactures will give a good price to the productions of agriculture is entirely fallacious. Whatever may be the domestic demand for our grain, the supply will exceed it.

Mr. L. said that, in the detached observations which he had offered, he had endeavored to remove the impression which some of the general

arguments of the friends of the bill had made. The propositions which, to his mind, it appeared necessary that they should establish, they did not prove—they scarcely noticed. Grant that it is right that the Government should encourage all the manufactures of the country, that considerable duties should be laid upon the importation of every article which can compete with our own fabrics. This we have done already. He believed that there was now no nation in the world which, in proportion to its income, paid so great a bounty to its manufacturers, as the United States. Had it ever been contended, not merely that manufactures should be encouraged, but that the bounty to be given should not be limited by any determined relation to the necessity of the manufacture, or the fair profits of the manufacturer? This mode of defending the bill was, perhaps, judicious; it was certainly embarrassing to its opponents. You say that it is important to encourage the manufacture of cotton. Be it so. We know that, however it be disguised, this can be done only at the expense of the other classes of society. Is it not proper to inquire what expense is necessary; what would be adequate? The operation of a protecting duty was simple, but he must detain the House for a few moments upon the subject, trite and familiar as it was. Where duties are laid upon the importation of articles of a kind which is not produced within the country, the additional price which is paid by the community is received into the public treasury, with a deduction only for the costs of collection. Where a duty is laid upon the importation of an article which is produced within the country, it will cause the same rise in its price as in the former case; but, of the additional sum which is paid by the community, a part will be received by the Government and a part by the manufacturer or producer of the domestic article. If, for instance, one hundred millions of pounds of sugar were consumed annually in the United States, and three-fourths of this amount were furnished by domestic industry, an additional duty of one cent the pound would cause the consumers of sugar throughout the country to pay one million of dollars more in the price of the article, than they would otherwise do—would impose upon the people a new tax of one million; but, of this sum, less than $250,000 would be received by the Government, and $750,000 by the sugar planter.

What he regretted, Mr. L. said, most, in the course pursued by the Committee of Manufactures, was, that they suggested no standard by which the sufficiency of the encouragement which they proposed could be tested, and promised, therefore, no limitation to the burden which might be imposed upon the country. The chairman of that committee had, indeed, more than once directed our attention to the duties imposed by the laws of Russia, France, and England—models which we had not yet learned to imitate. It was not extraordinary that Governments which were obliged to drain every resource of revenue, should lay heavier duties upon importation than we had done. There was no part, however, of their system of exaction in which we approached so near them as in our duties upon commerce. In attempting any comparison between their duties and those of the United States, it was obviously necessary to consider the difference of our circumstances.

Mr. L. said that he would say no more as to the degree of additional encouragement which was required by our manufactories.

But he had a few observations to make as to the principles which appeared to have been adopted in the tariff proposed by the Committee of Manufactures.

Among the most objectionable of these was what he considered as the proscription of the East India trade, the principal articles afforded by which were subjected to a duty of forty per cent.

The ground of this proscription was, that the East Indies took from us scarcely any article of our produce.

He had occasion on a former day to advert to one of the most interesting branches of this trade—to that in which neither specie nor produce was exported, but in which the enterprise and industry of our seamen formed the capital which a harsh, and, he thought, a mistaken policy would condemn to inactivity. They took nothing from your country; but they explored the most distant seas—they climbed almost inaccessible rocks—they pursued their hardy and dangerous employment between the ports of savage nations, and earned by their freights a capital which fortune had not given them. You would encourage manufacturing industry because it was productive; but the industry of the brave men of whom he spoke created the capital which they brought back to our country. They did not twirl the spindle, or fling the shuttle; but when they brought home a cargo of India fabrics, (peculiarly suited to the wants of the poorest class of our society,) was their industry less worthy of encouragement, because they had made these fabrics on tempestuous seas, or because, in pursuing their own interests, they acquired and perfected the naval excellence which made them our pride and our defence? We gave them the hospitality of our ports: they might take in wood and water, and sail in search of some strange land, from which these products of American industry are not yet excluded! The policy appeared to him unjust and cruel.

But the other branches of the East Indian trade merited encouragement rather than prohibition. He had already spoken of the fallacy which represented a trade to be injurious, in which the imports exceeded the exports; and the East Indian trade furnished a good illustration of the fallacy. It takes, if you please, nothing of domestic produce from us; it gave to the consumption of the country, in the year when he had last examined the subject, an amount of goods to the value of five millions. How were these goods paid for? Specie had

undoubtedly been shipped both from America and Europe for their purchase. But our sales of East India articles in foreign countries had exceeded the amount of our purchases in India. Five millions of goods then consumed in the United States were paid for by the mere profits of the trade. Three thousand seamen, supported by the requisite capital, added in one year five millions to the clear amount of national income. There was no exportation of our produce to pay for these fabrics, because they were paid for already; they were the acquisitions of American industry.

He would not detain the House by talking of the injury which the Indian trade was supposed to do us by draining our specie. How the purchase of merchandise, either in India or anywhere else, of which we kept the part that we wanted, and sold the remainder for more than we gave for the whole, could lessen the specie which we retained, it would be a little difficult to explain.

Another characteristic of the proposed tariff, is its raising the duty on articles which had been lowered in the act of 1816, because from their small bulk, in proportion to their value, it had been found impracticable to prevent their being smuggled into the country. Watches, jewelry, and laces, had, among other articles, been reduced to seven and a half per cent. The reduction had been proposed by the Secretary of the Treasury, and adopted by the House on this ground. Had any examination into the fact been made by the Committee of Manufactures? They had raised other articles also which were known even at the present duties to have been introduced clandestinely—for instance, coffee from five to six cents, segars from $2 50 to $5. A large class of articles, of which the supply is almost exclusively afforded by the industry of the country, and on which an increased duty if it have any effect at all can only have that of unnecessarily increasing the price, is taxed in the proposed tariff considerably higher than now. Thus, carriages and furniture are raised from thirty to thirty-five per cent.; boots from $1 50 to $2; candles from three to five cents; molasses from five to ten cents; nails from four to five; soap from three to four; brown sugar from three to four. He might make the list much longer.

Mr. BALDWIN replied to Mr. LOWNDES and others.

Mr. FOOT observed, having spent the whole of his life in commercial and agricultural pursuits, and being a practical friend to domestic manufactures, he felt it to be his duty to state the reasons which induced him to move the postponement of this bill to the first day of next session.

Sir, this subject is not only very important, but very intricate, involving the interest of every portion of the community. A radical or very material alteration of a commercial tariff must of necessity produce a sensible shock in every community. It ought never to be adopted without much deliberation, and a careful attention to its effects upon the several interests which must of necessity be affected by any change in the system.

If the Committee of Manufactures had confined their attention to the several articles of foreign manufacture which interfere with our domestic manufactures alone, the bill would have received my vote without any hesitation. But, sir, when it is proposed to alter the whole system, ostensibly for the encouragement of American manufacturers, and proposes, among the first articles, to impose an additional duty of 6½ per centum on the dyeing materials essential to our own manufacture, and increases the duty on the most necessary articles, while it reduces the duty on wines and luxuries; and when we are told by the chairman that our system of revenue from imports is rotten, and that our dependence on commerce as a source of revenue must be abandoned,—sir, I think we should pause before we rashly adopt a measure calculated—yes, sir, and even avowed as a measure—to prohibit the importation of many articles from which most of our revenue has always been obtained, to the amount of more than three hundred millions of dollars; and when we have been also sarcastically threatened, that if we complained of a duty of ten cents on a gallon of molasses, because of its unequal and partial operation upon the interests of our constituents, that fifteen cents should be imposed. Sir, I think the system, as well as the views of those who advocate it, demand our serious attention.

Sir, gentlemen declare this measure has been requested by the merchants of our country, and that the agricultural interest does not object to it. If, sir, the commercial and agricultural interests of this country had as many Representatives on this floor as there are gentlemen of *one profession* in Congress, you would hear their voice in "tones of thunder" against the passage of this bill. Would they consent to pay direct taxes to the amount of twenty millions of dollars annually? Who must pay your additional duties? The consumers, all will acknowledge: and it has been truly said, that the agricultural interest composes nine-tenths of the whole population. If gentlemen who so strenuously advocate this bill would encourage domestic manufactures, by using them in their dress, rather than those very articles of foreign manufacture which have driven the American manufacturer to ruin, sir, you would afford them more efficient aid than by any legislative provisions.

Sir, it is with a view of affording to those who are interested in this subject an opportunity to be heard, and for a fair investigation of the merits of this bill, (which has been before the public but about one week;) and as at this late period of the session there is not sufficient time to digest and mature a proper system; and with a full conviction that this bill will not aid the manufacturer, but will materially injure the two

great interests of agriculture and commerce, and most sensibly affect the revenue of the country,—that this motion is made. And I do hope gentlemen will consent to its postponement until the next session.

I presume a large majority of this House will support the bill for laying duties on sales at auction, which, in my opinion, will afford essential encouragement to the manufacturing interest and the regular merchant, without any material injury to any portion of the country.

But, sir, I am not prepared to give my vote in favor of this bill, which will, in my opinion, materially affect the interests of the agricultural and commercial portion of the Eastern section of the Union, by its unequal operation upon the East India trade, with but a doubtful prospect of benefit to the manufacturer.

Mr. SILSBEE, of Massachusetts, made a few remarks in reply to Mr. BALDWIN; when—

Mr. SIMKINS moved that the bill and amendments be postponed until the first day of the next session. In favor of which motion, Mr. HARDIN withdrew his motion for indefinite postponement.

Mr. PARKER, of Virginia, then demanded the previous question, but the call was not sustained by a majority of the House.

The question was then, about six o'clock, taken on the motion to postpone the bill until the first day of the next session, and was decided in the negative.

The amendments reported from the Committee of the Whole to the said bill, were then concurred in by the House.

Mr. EDWARDS, of North Carolina, then moved further to amend the bill, by reducing the duty on salt imported, from twenty-five cents per bushel to twenty cents per bushel.

The yeas and nays being ordered on this question, Mr. METCALF moved the previous question, (the effect of which would be to decide forthwith the main question, viz., the engrossment of the bill for a third reading;) but the call was negatived—71 to 60.

The question was then taken on reducing the salt duty, and decided in the affirmative, by yeas and nays—For the amendment 93, against it 71.

Mr. HILL, of Massachusetts, moved to amend the bill by reducing the duty on imported molasses from "ten" cents to "five" cents a gallon; on which motion the yeas and nays were ordered.

Mr. PARKER, perceiving that all the amendments which had been discussed and rejected in Committee of the Whole would probably be again offered, and the time of the House occupied in the tedious process of deciding them again, by yeas and nays, moved again for the previous question.

The call for the previous question was sustained by a vote of 86 to 62; and the previous question, "Shall the main question be now put?" was stated accordingly, and was decided, by yeas and nays, in the affirmative—ayes 92, noes 71.

The said main question was then put, to wit: "Shall the bill be engrossed, and read a third time?" and passed in the affirmative—yeas 90, nays 69, as follows:

YEAS.—Messrs. Adams, Allen of New York, Baker, Baldwin, Bateman, Beecher, Bloomfield, Boden, Brown, Brush, Campbell, Case, Clark, Cook, Darlington, Dennison, Dewitt, Dowse, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Ervin, Fay, Folger, Ford, Forrest, Gross of New York, Gross of Pennsylvania, Guyon, Hackley, Hall of New York, Hall of Delaware, Hazard, Hemphill, Hendricks, Herrick, Hibshman, Heister, Hostetter, Kendall, Kinsey, Kinsley, Little, Linn, Lyman, Maclay, McLane of Delaware, McLean of Kentucky, Marchand, Mason, Meigs, Metcalf, R. Moore, S. Moore, Monell, Morton, Mosely, Murray, Newton, Parker of Massachusetts, Patterson, Phelps, Philson, Pitcher, Rich, Richmond, Rogers, Ross, Russ, Sampson, Sawyer, Sergeant, Shaw, Sloan, Smith of New Jersey, Sonthard, Stevens, Storrs, Strong of New York, Tarr, Taylor, Tomlinson, Tompkins, Tracy, Trimble, Van Rensselaer, Wallace, Wendover, and Wood.

NAYS.—Messrs. Alexander, Allen of Tennessee, Anderson, Archer of Maryland, Archer of Virginia, Ball, Barbour, Bayley, Bryan, Buffum, Burton, Burwell, Butler of New Hampshire, Butler of Louisiana, Cannon, Clagett, Cobb, Cocke, Crafts, Crawford, Crowell, Culbreth, Culpeper, Cushman, Cuthbert, Davidson, Earle, Edwards of North Carolina, Fisher, Floyd, Foot, Fullerton, Hall of North Carolina, Hardin, Hill, Holmes, Hooks, Johnson, Jones of Tennessee, Kent, Livermore, Lowndes, McCoy, McCreary, Mallary, Mercer, Neale, Nelson of Massachusetts, Overstreet, Parker of Virginia, Plumer, Rankin, Reed, Rhea, Robertson, Settle, Silsbee, Simkins, Slocumb, B. Smith of Virginia, Smith of North Carolina, Swearingen, Terrell, Tucker of Virginia, Tucker of South Carolina, Tyler, Whitman, Williams of Virginia, and Williams of North Carolina.

The House then (having rejected ten or twelve previous motions to adjourn, at various stages of the evening proceedings) adjourned between 7 and 8 o'clock, after a sitting of more than nine hours.

FRIDAY, May 12.

Small Vessels of War.

The bill from the Senate, authorizing the building of certain small vessels of war, passed through a Committee of the Whole, after being amended, so as to reduce the number from seven to five.

[The object of these vessels is to protect the revenue, and pursue pirates, &c., in the waters of our Southern coast, which are too shallow to be navigated by the vessels now in service.]

The bill was opposed by Mr. CANNON, as unnecessary, and also because the cost of the vessels ($60,000) was not to be taken from the moneys already appropriated for repairs. It was supported by Messrs. SILSBEE, JOHNSON, and NEWTON, on the ground of its being required

for the security of the revenue, and the detection of smugglers and pirates.

The question on ordering the bill to be engrossed for a third reading, was decided by yeas and nays—78 votes to 37.

Seven o'clock, P. M.

The bill to amend the act for the reservation of timber lands for naval purposes; the bill to continue in force the act to provide for persons disabled by known wounds in the Revolutionary war; and the bill to provide for repairing the General Post Office building,—passed through Committees of the Whole, and were ordered to be engrossed for a third reading.

MONDAY, May 15.

Treasury Department.

The House, on motion of Mr. SERGEANT, resolved itself into a Committee of the Whole, on the bill from the Senate, in addition to the acts providing for the better organization of the Treasury Department.

[This bill provides a summary process for the recovery of moneys belonging to the United States, in the hands of individuals, collectors, and other public agents, &c.]

The bill gave rise to a debate, begun by Mr. EDWARDS, of North Carolina, in opposition to the bill, which was supported by Mr. SERGEANT and others.

The objection set up to the bill was, that it proposed to violate the right, secured by the constitution, of a trial by jury, &c., and also the other right, that no man should be deprived of his property without due process of law.

In reply to this objection, it was argued, that there was nothing proposed but what was sanctioned by numerous precedents, such as sales for non-payment of taxes, &c. The moment a man receives the public money, he is the agent or instrument of the Treasury, and ought to be subject to its power, so far as to compel him to account for the money which he has received, and refuses or neglects to account for.

The bill having been reported to the House, a motion was made by Mr. CROWELL to postpone the further consideration thereof to the first day of the next session; which was negatived.

The bill was then ordered to be read a third time; and was subsequently read a third time, and passed—by yeas and nays—89 to 14.

Thanks to the Speaker.

The House having got through the business before it—

Mr. WARFIELD, of Maryland, rose and observed, that although it had been customary, whenever there existed a disposition on the part of the House by a unanimous vote to express their unqualified approbation of the course pursued by the Speaker, to delay the expression of that opinion until the termination of the period for which he was elected, yet he was induced, on this occasion, to depart from that course, having distinctly understood that it was the intention of the Speaker to decline the duties of the chair at the close of the present session. Any observations, said Mr. W., to enforce the justice and propriety of unanimously adopting the resolution would be altogether superfluous. Every member of the House, in common with himself, had witnessed, during the present laborious and protracted session, the dignity, ability, and impartiality, with which the Speaker had discharged the duties of his station; and he was persuaded there was not a member of that body to whom it would not afford the truest gratification to offer the small tribute of respect and approbation intended to be expressed in the resolution then before them. Mr. W. then submitted the following resolution, the question on which being put by the Clerk, it was adopted unanimously:

Resolved, unanimously, by the House of Representatives of the United States of America, That the thanks of this House be given to the honorable HENRY CLAY, Speaker thereof, for the dignity, ability, and impartiality with which he has discharged the duties of that station.

Upon which Mr. CLAY rose, and addressed the House as follows:

GENTLEMEN: The House of Representatives has, on former occasions, honored me by a vote of its thanks. I then felt that the sole claim which I had to a testimony of the public approbation, so distinguished, was the zeal with which I have ever sought to discharge the highly responsible duties of the chair; and I am now sensible that I am indebted to your belief of the continued exertion of that zeal for the fresh proof of your favorable sentiments towards me, in the resolution which you have just adopted.

If, gentlemen, the traveller parts with regret from those agreeable acquaintances which he casually makes, as he journeys on his way, how much more painful must be the separation of those who have co-operated many months in the anxious endeavor to advance the prosperity of a common country; who have been animated by mutual sympathies; and who have become endeared to each other by an interchange of all the friendly offices incident to the freest social intercourse? Addressing you, as I now do, probably the last time from this place, I confess I feel a degree of emotion which I am utterly unable to express. I shall carry with me into that retirement which is necessary to the performance of indispensable private duties, a grateful recollection of all your kindnesses; of the respectful and affectionate consideration of me which you have always evinced; of the generous and almost unlimited confidence which you have ever reposed in me; and of the tenderness with which you have treated even my errors. But, interesting as have been the relations in which I have stood, for many years, to this House, I have yet higher motives for continuing to behold it with the deepest solicitude. I shall regard it as the great depositary of the most important powers of our excellent constitution; as the watchful and faithful sentinel of the freedom of the people; as the fairest

and truest image of their deliberate will and wishes; and as that branch of the Government where, if our beloved country shall unhappily be destined to add another to the long list of melancholy examples of the loss of public liberty, we shall witness its last struggles and its expiring throes.

Gentlemen, I beg you to carry with you my sincerest wishes for your individual happiness, and the prosperity of your respective families.

Mr. SMITH, of Maryland, and Mr. VAN RENSSELAER having been appointed to wait on the President, reported to the House that the President had no further communication to make; and

The House adjourned to the second Monday in November next, being the thirteenth day of the month.

SIXTEENTH CONGRESS.—SECOND SESSION.

BEGUN AT THE CITY OF WASHINGTON, NOVEMBER 13, 1820.

PROCEEDINGS IN THE SENATE.

MONDAY, November 13, 1820.

The second session of the Sixteenth Congress commenced this day, at the city of Washington, conformably to the act, approved the thirteenth of May, one thousand eight hundred and twenty, entitled "An act fixing the time for the next meeting of Congress," and the Senate assembled.

PRESENT:

DAVID L. MORRILL and JOHN F. PARROTT, from the State of New Hampshire.

JAMES BURRILL, jr., from Rhode Island.

ISAAC TICHENOR, from Vermont.

RUFUS KING and NATHAN SANFORD, from New York.

MAHLON DICKERSON and JAMES J. WILSON, from New Jersey.

JONATHAN ROBERTS and WALTER LOWRIE, from Pennsylvania.

OUTERBRIDGE HORSEY and NICHOLAS VAN DYKE, from Delaware.

JAMES BARBOUR and JAMES PLEASANTS, from Virginia.

NATHANIEL MACON, from North Carolina.

JOHN GAILLARD and WILLIAM SMITH, from South Carolina.

RICHARD M. JOHNSON, from Kentucky.

JOHN HENRY EATON, from Tennessee.

BENJAMIN RUGGLES and WILLIAM A. TRIMBLE, from Ohio.

JAMES BROWN and HENRY JOHNSON, from Louisiana.

WALLER TAYLOR and JAMES NOBLE, from Indiana.

THOMAS H. WILLIAMS and DAVID HOLMES, from Mississippi.

NINIAN EDWARDS and JESSE B. THOMAS, from Illinois.

WILLIAM R. KING and JOHN W. WALKER, from Alabama.

JOHN CHANDLER and JOHN HOLMES, from Maine.

JOHN GAILLARD, President *pro tempore*, resumed the chair.

The new members having qualified and taken their seats, they were classed, by lot, as is usual. The result was, that the term of service of Mr. HOLMES will expire on the 3d March next, and that of Mr. CHANDLER on the 3d of March two years thereafter.

Mr. KING, of Alabama, moved the appointment of a committee to acquaint the President of the United States of the organization of the Senate, and of its readiness to receive any communication from him; whereupon, Messrs. KING, of Alabama, and MACON were appointed.

TUESDAY, November 14.

WILLIAM A. PALMER, from the State of Vermont, and JOHN WILLIAMS, from the State of Tennessee, severally attended.

The PRESIDENT communicated a copy of the constitution, as adopted for the government of the State of Missouri, which was read.

Whereupon, on motion of Mr. SMITH,

Resolved, That a committee be appointed to inquire whether any, and if any, what, legislative measures may be necessary for admitting the State of Missouri into the Union.

Messrs. SMITH, BURRILL, and MACON, were appointed the committee.

WEDNESDAY, November 15.

SAMUEL W. DANA, from the State of Connecticut, attended.

Mr. BURRILL communicated a resolution, passed by the Legislature of the State of Rhode Island and Providence Plantations, instructing their Senators, and requesting their Representatives in Congress, to exert their influence to reduce the compensation of members of Congress to six dollars per day; and the resolution was read.

On motion by Mr. WALKER, of Alabama, the Senate adjourned to one o'clock in the afternoon.

One o'clock in the afternoon.

A message from the House of Representatives informed the Senate that a quorum of the House of Representatives is assembled, and have elected JOHN W. TAYLOR, one of the Representatives from the State of New York, their Speaker, in the place of Henry Clay, resigned, and are ready to proceed to business; and that they have appointed a committee on their part to join the committee appointed on the part of the Senate, to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and ready to receive any communications he may be pleased to make to them.

Mr. KING, of Alabama, reported, from the joint committee, that they had waited on the President of the United States, and that the President informed the committee that he would make a communication to the two Houses forthwith.

President's Message.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Fellow-citizens of the Senate and of the House of Representatives:

In communicating to you a just view of public affairs, at the commencement of your present labors, I do it with great satisfaction; because, taking all circumstances into consideration which claim attention, I see much cause to rejoice in the felicity of our situation. In making this remark, I do not wish to be understood to imply that an unvaried prosperity is to be seen in every interest of this great community. In the progress of a nation, inhabiting a territory of such vast extent and great variety of climate, every portion of which is engaged in foreign commerce, and liable to be affected, in some degree, by the changes which occur in the condition and regulations of foreign countries, it would be strange if the produce of our soil and the industry and enterprise of our fellow-citizens received at all times, and in every quarter, a uniform and equal encouragement. This would be more than we would have a right to expect, under circumstances the most favorable. Pressures on certain interests, it has been admitted, has been felt; but allowing to these their greatest extent, they detract but little from the force of the remarks already made. In forming a just estimate of our present situation, it is proper to look at the whole, in the outline, as well as in the detail. A free, virtuous, and enlightened people know well the great principles and causes on which their happiness depends; and even those who suffer most, occasionally, in their transitory concerns, find great relief under their sufferings, from the blessings which they otherwise enjoy, and in the consoling and animating hope which they administer. From whence do these pressures come? Not from a Government which is founded by, administered for, and supported by the people. We trace them to the peculiar character of the epoch in which we live, and to the extraordinary occurrences which have signalized it. The convulsions with which several of the powers of Europe have been shaken, and the long and destructive wars in which all were engaged, with their sudden transition to a state of peace, presenting, in the first instance, unusual encouragement to our commerce, and withdrawing it in the second, even within its wonted limit, could not fail to be sensibly felt here. The station, too, which we had to support through this long conflict, compelled as we were finally to become a party to it with a principal power, and to make great exertions, suffer heavy losses, and to contract considerable debts, disturbing the ordinary course of affairs, by augmenting, to a vast amount, the circulating medium, and thereby elevating, at one time, the price of every article above a just standard, and depressing it at another below it, had likewise its due effect.

It is manifest that the pressures of which we complain have proceeded, in a great measure, from these causes. When, then, we take into view the prosperous and happy condition of our country, in all the great circumstances which constitute the felicity of a nation—every individual in the full enjoyment of all his rights: the Union blessed with plenty, and rapidly rising to greatness, under a national Government, which operates with complete effect in every part, without being felt in any, except by the ample protection which it affords, and under State governments which perform their equal share, according to a wise distribution of power between them, in promoting the public happiness—it is impossible to behold so gratifying, so glorious a spectacle, without being penetrated with the most profound and grateful acknowledgments to the Supreme Author of all good for such manifold and inestimable blessings. Deeply impressed with these sentiments, I cannot regard the pressures to which I have adverted otherwise than in the light of mild and instructive admonitions; warning us of dangers to be shunned in future; teaching us lessons of economy, corresponding with the simplicity and purity of our institutions, and best adapted to their support; evincing the connection and dependence which the various parts of our happy Union have on each other, thereby augmenting daily our social incorporation, and adding, by its strong ties, new strength and vigor to the political; opening a wider range, and with new encouragement, to the industry and enterprise of our fellow-citizens at home and abroad; and more especially by the multiplied proofs which it has accumulated of the great perfection of our most excellent system of government, the powerful instrument, in the hands of our all-merciful Creator, in securing to us these blessings.

Happy as our situation is, it does not exempt us from solicitude and care for the future. On the contrary, as the blessings which we enjoy are great, proportionally great should be our vigilance, zeal, and activity, to preserve them. Foreign wars may again expose us to new wrongs, which would impose on us new duties, for which we ought to be prepared. The state of Europe is unsettled, and how long peace may be preserved is altogether uncertain; in addition to which we have interests of our own to adjust, which will require particular attention. A correct view of our relations with each power will enable you to form a just idea of existing difficulties, and of the measures of precaution best adapted to them.

Respecting our relations with Spain, nothing explicit can now be communicated. On the adjournment of Congress in May last, the Minister Plenipotentiary of the United States, at Madrid, was instructed to inform the Government of Spain that, if His Catholic Majesty should then ratify the treaty, this Government would accept the ratification, so far as

to submit to the decision of the Senate, the question, whether such ratification should be received in exchange for that of the United States, heretofore given. By letters from the Minister of the United States to the Secretary of State, it appears that a communication, in conformity with his instructions, had been made to the Government of Spain, and that the Cortes had the subject under consideration. The result of the deliberations of that body, which is daily expected, will be made known to Congress as soon as it is received. The friendly sentiment which was expressed on the part of the United States, in the Message of the 9th of May last, is still entertained for Spain. Among the causes of regret, however, which are inseparable from the delay attending this transaction, it is proper to state that satisfactory information has been received, that measures have been recently adopted, by designing persons, to convert certain parts of the Province of Florida into depots for the reception of foreign goods, from whence to smuggle them into the United States. By opening a port within the limits of Florida, immediately on our boundary, where there was no settlement, the object could not be misunderstood. An early accommodation of differences will, it is hoped, prevent all such fraudulent and pernicious practices, and place the relations of the two countries on a very amicable and permanent basis.

The commercial relations between the United States and the British colonies in the West Indies, and on this continent, have undergone no change; the British Government still preferring to leave that commerce under the restriction heretofore imposed on it, on each side. It is satisfactory to recollect that the restraints resorted to by the United States were defensive only, intended to prevent a monopoly, under British regulations, in favor of Great Britain; as it likewise is to know that the experiment is advancing in a spirit of amity between the parties.

The question depending between the United States and Great Britain, respecting the construction of the first article of the Treaty of Ghent, has been referred, by both Governments, to the decision of the Emperor of Russia, who has accepted the umpirage.

An attempt has been made with the Government of France, to regulate, by treaty, the commerce between the two countries, on the principle of reciprocity and equality. By the last communication from the Minister Plenipotentiary of the United States at Paris, to whom full power had been given, we learn that the negotiation had been commenced there; but, serious difficulties having occurred, the French Government had resolved to transfer it to the United States, for which purpose the Minister Plenipotentiary of France had been ordered to repair to this city, and whose arrival might soon be expected. It is hoped that this important interest may be arranged on just conditions, and in a manner equally satisfactory to both parties. It is submitted to Congress to decide, until such arrangement is made, how far it may be proper, on the principle of the act of the last session, which augmented the tonnage duty on French vessels, to adopt other measures for carrying more completely into effect the policy of that act.

The act referred to, which imposed new tonnage on French vessels, having been in force from and after the first day of July, it has happened that several vessels of that nation which had been despatched from France before its existence was known, have entered the ports of the United States, and been subject to its operation, without that previous notice which the general spirit of our laws gives to individuals in similar cases. The object of that law having been merely to countervail the inequalities which existed to the disadvantage of the United States, in their commercial intercourse with France, it is submitted, also, to the consideration of Congress, whether, in the spirit of amity and conciliation which it is no less the inclination than the policy of the United States to preserve, in their intercourse with other powers, it may not be proper to extend relief to the individuals interested in those cases, by exempting from the operation of the law all those vessels which have entered our ports without having had the means of previously knowing the existence of the additional duty.

The contest between Spain and the Colonies, according to the most authentic information, is maintained by the latter with improved success. The unfortunate divisions which were known to exist some time since, at Buenos Ayres, it is understood, still prevail. In no part of South America has Spain made any impression on the colonies, while, in many parts, and particularly in Venezuela and New Granada, the colonies have gained strength and acquired reputation, both for the management of the war, in which they have been successful, and for the order of the internal administration. The late change in the Government of Spain, by the re-establishment of the constitution of 1812, is an event which promises to be favorable to the Revolution. Under the authority of the Cortes, the Congress of Angostura was invited to open a negotiation for the settlement of differences between the parties, to which it was replied, that they would willingly open the negotiation, provided the acknowledgment of their independence was made its basis, but not otherwise. Of further proceedings between them we are uninformed. No facts are known to this Government, to warrant the belief, that any of the powers of Europe will take part in the contest; whence, it may be inferred, considering all circumstances, which must have weight in producing the result, that an adjustment will finally take place, on the basis proposed by the colonies. To promote that result, by friendly counsels, with other powers, including Spain herself, has been the uniform policy of this Government.

In looking to the internal concerns of our country you will, I am persuaded, derive much satisfaction from a view of the several objects to which, in the discharge of your official duties, your attention will be drawn. Among these, none holds a more important place than the public revenue, from the direct operation of the power, by which it is raised, on the people, and by its influence in giving effect to every other power of the Government. The revenue depends on the resources of the country, and the facility by which the amount required is raised, is a strong proof of the extent of the resources, and the efficiency of the Government. A few prominent facts will place this great interest in a just light before you. On the 30th of September, 1815, the funded and floating debt of the United States was estimated at one hundred and nineteen millions six hundred and thirty-five thousand five hundred and fifty-eight dollars. If to this sum be added the amount of five per cent. stock subscribed to the Bank of the United States, the amount of Mississippi stock, and of the stock which was issued subsequently to that date, the balances ascertained to be due to certain States, for

military services, and to individuals, for supplies furnished, and services rendered during the late war, the public debt may be estimated as amounting, at that date, and as afterwards liquidated, to one hundred and fifty-eight millions seven hundred and thirteen thousand forty-nine dollars. On the 30th of September, 1820, it amounted to ninety-one millions nine hundred and ninety-three thousand eight hundred and eighty-three dollars, having been reduced in that interval, by payments, sixty-six millions eight hundred and seventy-nine thousand one hundred and sixty-five dollars. During this term, the expenses of the Government of the United States were likewise defrayed, in every branch of the civil, military, and naval establishments; the public edifices in this city have been rebuilt, with considerable additions; extensive fortifications have been commenced, and are in a train of execution; permanent arsenals and magazines have been erected in various parts of the Union; our Navy has been considerably augmented, and the ordnance, munitions of war, and stores, of the Army and Navy, which were much exhausted during the war, have been replenished.

By the discharge of so large a proportion of the public debt, and the execution of such extensive and important operations, in so short a time, a just estimate may be formed of the great extent of our national resources. The demonstration is the more complete and gratifying, when it is recollected that the direct tax and excise were repealed soon after the termination of the late war, and that the revenue applied to these purposes has been derived almost wholly from other resources.

The receipts into the Treasury, from every source, to the 30th of September last, have amounted to sixteen millions seven hundred and ninety-four thousand one hundred and seven dollars and sixty-six cents; whilst the public expenditures, to the same period, amounted to sixteen millions eight hundred and seventy-one thousand five hundred and thirty-four dollars and seventy-two cents; leaving in the Treasury, on that day, a sum estimated at one million nine hundred and fifty thousand dollars. For the probable receipts of the following year, I refer you to the statement which will be transmitted from the Treasury.

The sum of three millions of dollars authorized to be raised by loan, by an act of the last session of Congress, has been obtained upon terms advantageous to the Government, indicating, not only an increased confidence in the faith of the nation, but the existence of a large amount of capital seeking that mode of investment, at a rate of interest not exceeding five per centum per annum.

It is proper to add, that there is now due to the Treasury, for the sale of public lands, twenty-two millions nine hundred and ninety-six thousand five hundred and forty-five dollars. In bringing this subject to view, I consider it my duty to submit to Congress, whether it may not be advisable to extend to the purchasers of these lands, in consideration of the unfavorable change which has occurred since the sales, a reasonable indulgence. It is known that the purchases were made when the price of every article had risen to its greatest height, and that the instalments are becoming due at a period of great depression. It is presumed that some plan may be devised, by the wisdom of Congress, compatible with the public interest, which would afford great relief to these purchasers.

Considerable progress has been made, during the present season, in examining the coast and its various bays and other inlets; in the collection of materials, and in the construction of fortifications for the defence of the Union, at several of the positions at which it has been decided to erect such works. At Mobile Point and Dauphin Island, and at the Rigolets, leading to Lake Pontchartrain, materials to a considerable amount have been collected, and all the necessary preparations made for the commencement of the works. At Old Point Comfort, at the mouth of James River, and at the Rip-Rap, on the opposite shore, in the Chesapeake Bay, materials to a vast amount have been collected; and at the Old Point some progress has been made in the construction of the fortification, which is on a very extensive scale. The work at Fort Washington, on this river, will be completed early in the next spring; and that on the Pea Patch, in the Delaware, in the course of the next season. Fort Diamond, at the Narrows, in the harbor of New York, will be finished this year. The works at Boston, New York, Baltimore, Norfolk, Charleston, and Niagara, have been in part repaired; and the coast of North Carolina, extending south to Cape Fear, has been examined, as have likewise other parts of the coast eastward of Boston. Great exertions have been made to push forward these works with the utmost despatch possible; but, when their extent is considered, with the important purposes for which they are intended, the defence of the whole coast, and in consequence of the whole interior, and that they are to last for ages, it will be manifest that a well-digested plan, founded on military principles, connecting the whole together, combining security with economy, could not be prepared without repeated examinations of the most exposed and difficult parts, and that it would also take considerable time to collect the materials at the several points where they would be required. From all the light that has been shed on this subject, I am satisfied that every favorable anticipation which has been formed of this great undertaking will be verified, and that when completed it will afford very great, if not complete, protection to our Atlantic frontier in the event of another war; a protection sufficient to counterbalance in a single campaign with an enemy powerful at sea the expenses of all these works, without taking into the estimate the saving of the lives of so many of our citizens, the protection of our towns and other property, or the tendency of such works to prevent war.

Our military positions have been maintained at Belle Point, on the Arkansas, at Council Bluffs, on the Missouri, at St. Peter's, on the Mississippi, and at Green Bay, on the Upper lakes. Commodious barracks have already been erected at most of these posts, with such works as were necessary for their defence. Progress has also been made in opening communications between them, and in raising supplies at each for the support of the troops by their own labor, particularly those most remote.

With the Indians peace has been preserved, and a progress made in carrying into effect the act of Congress, making an appropriation for their civilization, with the prospect of favorable results. As connected equally with both these objects, our trade with those tribes is thought to merit the attention of Congress. In their original state, game is their sustenance and war their occupation; and if they find no employment from civilized powers, they destroy each other.

Left to themselves, their extirpation is inevitable. By a judicious regulation of our trade with them, we supply their wants, administer to their comforts, and gradually, as the game retires, draw them to us. By maintaining posts far in the interior, we acquire a more thorough and direct control over them; without which it is confidently believed that a complete change in their manners can never be accomplished. By such posts, aided by a proper regulation of our trade with them, and a judicious civil administration over them, to be provided for by law, we shall, it is presumed, be enabled not only to protect our own settlements from their savage incursions, and preserve peace among the several tribes, but accomplish also the great purpose of their civilization.

Considerable progress has also been made in the construction of ships of war, some of which have been launched in the course of the present year.

Our peace with the powers on the coast of Barbary has been preserved, but we owe it altogether to the presence of our squadron in the Mediterranean. It has been found equally necessary to employ some of our vessels for the protection of our commerce in the Indian sea, the Pacific, and along the Atlantic coast. The interests which we have depending in those quarters, which have been much improved of late, are of great extent, and of high importance to the nation, as well as to the parties concerned, and would undoubtedly suffer if such protection was not extended to them. In execution of the law of the last session, for the suppression of the slave trade, some of our public ships have also been employed on the coast of Africa, where several captures have already been made of vessels engaged in that disgraceful traffic.

JAMES MONROE.

WASHINGTON, *November* 14, 1820.

The Message was read, and three thousand copies thereof ordered to be printed for the use of the Senate.

FRIDAY, November 17.

JAMES LANMAN, from the State of Connecticut, arrived yesterday, and attended this day.

MONDAY, November 20.

JOHN ELLIOTT, and also, FREEMAN WALKER, from the State of Georgia, severally arrived, on the 17th instant, and attended this day.

THURSDAY, November 23.

Restriction of Slavery.

Mr. SANFORD communicated the following resolutions, passed by the Legislature of the State of New York; which were read:

STATE OF NEW YORK,
In Assembly, November 13, 1820.

Whereas the Legislature of this State, at the last session, did instruct their Senators and request their Representatives in Congress to oppose the admission, as a State into the Union, of any Territory not comprised within the original boundaries of the United States, without making the prohibition of slavery therein an indispensable condition of admission: And whereas this Legislature is impressed with the correctness of the sentiments so communicated to our Senators and Representatives; therefore,

Resolved, (if the honorable the Senate concur herein,) That this Legislature does approve of the principles contained in the resolutions of the last session; and, further, if the provisions contained in any proposed constitution of a new State deny to any citizens of the existing States the privileges and immunities of citizens of such new State, that such proposed constitution should not be accepted or confirmed; the same, in the opinion of this Legislature, being void by the Constitution of the United States. And that our Senators be instructed, and our Representatives in Congress be requested, to use their utmost exertions to prevent the acceptance and confirmation of any such constitution.

Resolved, (if the honorable the Senate concur herein,) That the President of the Senate and the Speaker of the Assembly do cause copies of these resolutions, duly certified by them, to be transmitted to the Senators and Representatives in Congress from this State.

Ordered, That the clerk deliver a copy of the preceding resolutions to the honorable the Senate, and request their concurrence in the same.

PETER SHARPE, *Speaker.*

Attest—DL. VAN DU WEYDER,
Clerk of Assembly.

STATE OF NEW YORK,
In Senate, November 15, 1820.

Resolved, That the Senate do concur with the honorable the Assembly, in their said resolutions and recitals.

Ordered, That the clerk deliver a copy of said resolution of concurrence to the honorable the Assembly.

JOHN TAYLER, *President.*

Attest—JOHN F. BACON,
Clerk of the Senate.

MONDAY, November 27.

HARRISON GRAY OTIS, from the State of Massachusetts, arrived on the 25th instant; and WILLIAM HUNTER from the State of Rhode Island and Providence Plantations, arrived on the 24th instant, severally attended this day.

ISHAM TALBOT, appointed a Senator by the Legislature of Kentucky to supply the vacancy occasioned by the resignation of William Logan, produced his credentials, was qualified, and took his seat in the Senate.

WEDNESDAY, November 29.

EDWARD LLOYD, from the State of Maryland, attended.

Admission of Missouri.

Mr. SMITH, from the committee to whom was referred the constitution, as adopted for the government of the State of Missouri, reported a resolution declaring the admission of the State of Missouri into the Union; and the resolution was read, and passed to the second reading.

FRIDAY, December 1.

ELIJAH H. MILLS, appointed a Senator by the Legislature of the State of Massachusetts, to supply the vacancy occasioned by the resignation of Prentiss Mellen, produced his creden-

tials, was qualified, and took his seat in the Senate.

MONDAY, December 4.

WILLIAM PINKNEY, from the State of Maryland, took his seat in the Senate.

Admission of Missouri.

The Senate, according to the order of the day, proceeded to the consideration of the resolution declaring the admission of the State of Missouri into the Union on an equal footing with the original States.

Mr. SMITH, of South Carolina, (chairman of the select committee which reported the resolution,) observed that the resolution was conformable to those adopted on similar occasions heretofore, and he hoped there would be no difficulty or delay in its passage. The constitution of the new State was republican, and no objection, he presumed, could arise to it: it was unnecessary to detain the Senate with any remarks on the subject, unless any explanations were desired by gentlemen, which he would with pleasure afford, so far as he was able. He trusted the resolution would now be acted on, and the members from the new State, who had been waiting for a considerable time, be admitted to their seats in the National Councils.

Mr. EATON, of Tennessee, disclaimed any disposition to create delay on this subject; but it was proper, Mr. E. said, that the mind of every member should be satisfied on a question of so much importance before he was called on to give his vote. His own mind, he confessed, was not satisfied; and, to obtain time for reflection, and to mature his opinion on it, he should move to postpone the resolution to a future day. At present, he repeated, he was not prepared to vote either in the affirmative or negative, with the conviction of being right. There were controverted points in the constitution presented by the new State, and he wished to see whether it was in all respects conformable to the Constitution of the United States. Another reason which Mr. E. offered in favor of a postponement of the question here, was, that the House of Representatives (if he might refer to its proceedings without being out of order) had fixed on Wednesday next for going into the consideration of the subject, and he did not consider it expedient or proper for both Houses to be discussing the same question contemporaneously. He deemed it a more eligible course that the subject should be acted on in one House first, and then be taken up in the other. To obtain time for himself, however, as he at first intimated, he should ask the Senate to postpone the resolution to Wednesday next only, and accordingly made a motion to that effect.

Mr. SMITH would not oppose the motion, but he objected to that reason of the gentleman, for postponement, which referred to the purposes of the other House. There was no such comity due to that House from this, as to wait until it had decided a question before it should be taken up here. This opinion was not incompatible with perfect respect for the other House; and such an argument ought not to govern the Senate or any other body. This question, Mr. S. remarked, had, in another shape, at the last session occupied a vast portion of the time of the Senate, and there was no authority for believing that the present would be a debated question. If gentlemen had any objections to the constitution, let them state them at once, and it would then be known whether any discussion was to ensue. Heretofore, States had come into the Union without being stopped at the threshold. He referred to the State of Indiana, in 1816; while the resolution for the admission of Indiana was under progress in the Senate, the House of Representatives had the member from that State in his seat debating and voting. There was no reason why the Senate, in the present case, should wait for the other House; let this branch go on and decide whether the new members have a right to their seats. It was only when this ill-fated Missouri presented itself for admission, that a desire was expressed for procrastination and delay. He hoped the Senate would not agree to the motion, unless divested of the reason given by the mover in relation to the other House.

Mr. BARBOUR, of Virginia, was never opposed to allowing gentlemen time to make up their opinions on all matters of deliberation; but in this case he concurred with Messrs. SMITH and JOHNSON, in their opposition to the motion, for the reasons they had assigned. The argument used by Mr. EATON, that it was proper to wait the decision of the other House, amounted almost to an indefinite postponement of the subject here. He was averse to delay on that ground. The question, he thought, had been forever sealed at the last session; so fully was he persuaded of this, that he had supposed accursed would have been the hand that should again open this fountain of bitter waters. Mr. B. then proceeded into a brief argument to show that it was right and proper, under every consideration of courtesy towards the members from the new State, now kept waiting at the bar for admission, and towards the State itself, to decide the question without more delay. A contrary course, he urged, would be a departure from the proceeding in all pre-existing cases; and he could not believe that a mere technical exception could operate on the wisdom of the Senate, of which he entertained the most exalted opinion, to prevent it from eternally burying the brand of discord which had been lighted up at the last session. Mr. B. said, as their was no good reason for the postponement asked for, he must vote against it. He hoped the time would never come when the opinion of this body, solemnly expressed, would not have a great moral effect out of doors as well as in doors. This question was looked at by the nation with much anxiety and some degree of alarm, and

he hoped the Senate would not keep the public mind in suspense, but decide it without delay.

Mr. EATON having again varied his motion to its original shape, for Wednesday—

Mr. JOHNSON, of Kentucky, said, as the gentleman had placed his motion on the ground of personal indulgence, he would cheerfully withdraw his opposition to the postponement, as he was always ready to accord to any gentleman reasonable time for preparation.

The question was then taken on postponing the resolution to Wednesday, and was agreed to, *nem. con.*

TUESDAY, December 5.

Case of Matthew Lyon under the Sedition Law.

Mr. BARBOUR from the committee to whom was referred the petition of Matthew Lyon, submitted the following report; which was read:

The claim of the petitioner to redress rests on the facts, that he was convicted under the law commonly called the sedition act, and suffered in his body by a long and loathsome confinement in jail, and in his estate by the payment of a large fine. He asserts that the law under which he suffered was unconstitutional; and proceeds to infer that when a citizen has been injured by an unconstitutional stretch of power he is entitled to indemnity.

Although this be the case of an individual, its correct decision involves general principles, so highly important as to claim a profound consideration.

Under this solemn impression, a majority of the committee, after the severest investigation, have decided that the petitioner is entitled to relief.

They owe it to themselves and to the occasion, to present succinctly to the Senate some of the prominent reasons which have produced this determination. The first question that naturally presents itself in the investigation is, Was the law Constitutional? The committee have no hesitation in pronouncing, in their opinion, it was not. They think it is not necessary at this day to enter into an elaborate disquisition to sustain the correctness of this opinion. They will content themselves by referring to the history of the times in which the law originated, when both its constitutionality and expediency underwent the strictest scrutiny. The opponents of the law challenged its advocates to point out the clause of the constitution which had armed the Government with so formidable a power as the control of, or interference with the press. A Government, said they, of limited powers, and authorized to execute such only as are expressly given by the constitution, or such as are properly incident to an express power, and necessary to its execution, has exercised an authority over a most important subject, which, so far from having been delegated, has been expressly withheld. That the patriots contemporary with the adoption of the constitution, not content with the universally received opinion, that all power not granted had been withheld, to obviate all doubt on a point of such moment, insisted that an amendment to that effect should be inserted in the constitution; and still jealous of that propensity, incident to all Governments, no matter what may be the form of its organization, or by whom administered, to enlarge the sphere of its authority, they, by express provisions, guarded from violation some of the cardinal principles of liberty; among these, as most important, they placed the liberty of conscience and of the press. Profoundly versed in the history of human affairs, whose every page made known that all Governments had seized on the altar and the press, and prostituted them into the most formidable engines against the liberty of mankind, they resolved, and most wisely so, as the sequel has evinced, to surround these great, natural, and inalienable rights by impassable barriers; and, to that end, have expressly declared, that Congress should have no power to legislate on them; and, notwithstanding these great obstacles, you have passed this act. The advocates of the law vainly endeavored to defend themselves by a technical discrimination between the liberty and licentiousness of the press. The American people, by overwhelming majorities, approaching, indeed, unanimity, denounced the law as a palpable and an alarming infraction of the constitution; and, although no official record of that decision can be produced, it is as notorious as a change of their public servants, which took place at that time, and to which this obnoxious measure so essentially contributed.

The committee are aware, that, in opposition to this view of the subject, the decision of some of the judges of the Supreme Court, sustaining the constitutionality of the law, has been frequently referred to, as sovereign and conclusive of the question.

The committee entertain a high respect for the purity and intelligence of the judiciary. But it is a rational respect, limited by a knowledge of the frailty of human nature, and the theory of the constitution, which declares, not only that judges may err in opinion, but also may commit crimes, and hence has provided a tribunal for the trial of offenders.

In times of violent party excitement, agitating a whole nation, to expect that judges will be entirely exempt from its influence, argues a profound ignorance of mankind. Although clothed with the ermine, they are still men, and carry into the judgment seat the passions and motives common to their kind. Their decisions, on party questions, reflect their individual opinions, which frequently betray them unconsciously into error. To balance the judgment of a whole people, by that of two or three men, no matter what may be their official elevation, is to exalt the creature of the constitution above its creator, and to assail the foundation of our political fabric, which is, that the decision of the people is infallible, from which there is no appeal, but to Heaven.

Taking it, therefore, as granted, that the law was unconstitutional, we are led to the next question, growing out of the inquiry, is the petitioner entitled to relief? This question, as a general one, is not susceptible of that precise answer, which might establish a uniform rule, applying equally to all times, and to all occasions. On the contrary, it must be decided by the peculiar circumstances of every case to which its application is attempted.

The committee, for instance, would themselves decide that relief was impracticable, where, from a long course of tyranny, attended with a rapacity far and wide, society had become so impoverished that the attempt to relieve might blight every prospect of future prosperity. Nor could they advocate relief, where the authority exercised admitted of a rational doubt as to its constitutionality, upon powers not expressly inhibited, nor in cases, perhaps, where the amount of the injuries complained of could not be as-

certained with a reasonable precision. None of these difficulties, however, present themselves in this case. The law under which the petitioner suffered, as has been previously asserted, and attempted to be shown, was palpably unconstitutional, as being directly in opposition to an express clause of the constitution. The amount of the injury sustained, in so far as relates to the fine paid by the petitioner, is fixed and certain, and the sum equal to a reimbursement is insignificant to the nation. In this case, therefore, the committee think the Government is under a moral obligation to indemnify the petitioner. An indemnity as consistent with policy as with justice, inculcating an instructive lesson to the oppressor and the oppressed. Successful usurpation yields, indeed, to but few checks; among the few is the justice to posterity, who take cognizance equally of the crimes of the usurper, and of the sufferings and the virtues of his victim—condemning the former, and administering relief to the latter. And what more consolatory to the suffering patriot, what better calculated to inspire constancy and courage, than a conviction, founded on facts, that his wrongs, on the restoration of sound principles, will attract the regard of the successful asserters of freedom, and who will cheerfully indemnify him for the injuries he has sustained? Such examples are not wanting in Governments less beneficent than ours—that of England is replete with instances of this kind. Acts of Parliament, passed in times of heat and excitement, are frequently reversed, and the individuals on whom they had operated are restored to the rights of which they had been deprived. Succeeding Parliaments do not hesitate to indemnify the victims of oppression, because they had suffered under the forms of law. Acts of their Legislature, whose power is omnipotent, form no obstacle with those to whom their injustice is made manifest, in granting relief. An American Congress will not suffer itself to be exceeded by any Government in acts of justice or beneficence.

The committee have only further to remark, that the Executive interposed its authority in various cases, and granted a full pardon to those convicted under the act in question, by which their fines were either remitted, or restored; relief, therefore, to the petitioner, would be only a common measure of justice. According to information received from the Department of State, no money has ever been paid into the Treasury by the officer who received the fines imposed under the sedition act. It is submitted to the discretion of the Senate, whether provision shall be made by law to indemnify the petitioner, by directing the amounting of his fine to be paid out of the Treasury, or to reclaim it from the delinquent officer or officers; and, in the latter event, to be at liberty to use the name of the United States in any prosecution to which resort may be had, with a view to that end.

Inasmuch, however, as the relief proposed to be given in this case is on general principles, the committee are of opinion it should be afforded also to every sufferer under the law.

They, therefore, beg leave to submit the following resolutions:

Resolved, That so much of the act, entitled "An act for the punishment of certain crimes against the United States," approved the 14th of July, 1798, as pretends to prescribe and punish libels, is unconstitutional.

Resolved, That the fines collected under that act ought to be restored to those from whom they were exacted; and that these resolutions be re-committed to the committee who brought them in, with instructions to report a bill to that effect.

WEDNESDAY, December 6.

Constitution of Missouri—Citizenship of Free Colored Persons.

Mr. BARBOUR, of Virginia, rose merely to suggest, as there was no doubt the mind of every gentleman was fully made up on the subject, that the question should be decided without consuming the time of the Senate in further debate.

Mr. EATON, of Tennessee, said, before the question was taken, he would ask leave to offer the following proviso to the resolution:

Provided, That nothing herein contained shall be so construed as to give the assent of Congress to any provision in the constitution of Missouri, if any such there be, which contravenes that clause in the Constitution of the United States, which declares that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

Mr. KING, of New York, thought this amendment of too much importance to be decided without a moment's reflection. Some little time, he thought, ought to be allowed to see its bearing; to see whether it meant any thing or nothing, and, if any thing, what that was. He hoped the question would be postponed at least until to-morrow.

Mr. EATON observed, that there was a feature in the constitution of Missouri which presented a difficulty to the minds of some gentlemen, and to his among the number. Doubts were entertained whether that constitution was not repugnant to the Constitution of the United States, and some might not be willing to adopt the unconditional terms of the resolution which declared the new constitution to be republican, and in conformity to the Constitution of the United States. It was to obviate difficulty on this point, by avoiding a declaration one way or the other on the questionable clause, that he offered the amendment.

Mr. KING, of New York, confessed himself at some loss how to decide on this amendment. If he voted in the affirmative, it might seem as if the Senate could pass a resolution contrary to the constitution; if in the negative, it would declare that a clause should have no effect which could have none, and must be nugatory. He thought a day, at least, should be given to consider the matter. For himself, he had asked no delay of the resolution; he was ready to vote on it; and he took this occasion to say he had not desired the subject to be reopened in the Senate; he believed it would do no good, but, on the contrary, that the public tranquillity would be promoted by deciding it quietly; the subject, he conceived, had been exhausted, and his opinion had undergone no change. He re-

gretted that these sentiments had not been felt elsewhere, and where he thought they ought to have been felt. As to the amendment, he thought a moment's delay should be allowed to examine it, and he moved its postponement until to-morrow.

Mr. BURRILL was in favor of a longer postponement, but hoped until to-morrow at least would be permitted. He, too, expressed his regret that the question had been reopened, and added a few remarks on the propriety of giving some time to consider this amendment, which was certainly of an important character.

Mr. MORRILL moved a postponement of the question to Monday, and spoke a few words in favor of that course.

Messrs. SMITH and BARBOUR opposed so long a postponement as to Monday, but were willing to allow until to-morrow.

The motion to postpone the subject to Monday was lost; and the resolution and amendment were postponed until to-morrow.

THURSDAY, December 7.

Missouri State Constitution—Citizenship of Free Colored People.

The Senate then resumed the consideration of the resolution for the admission of Missouri into the Union; the question being on the following proviso, offered yesterday by Mr. EATON:

"*Provided*, That nothing herein contained shall be so construed as to give the assent of Congress to any provision in the constitution of Missouri, if any such there be, which contravenes that clause in the Constitution of the United States which declares that 'the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.'"

Mr. KING, of New York, observed that the decision had been deferred yesterday at his request. For himself, he could discover no good effect which the proviso would produce. Such a declaration could not weaken the effect of the repugnant article of the constitution adopted by Missouri, or alter in any respect, he conceived, the question as it already stood before the Senate, concerning the admission of the new State. He therefore could not, viewing it as he did, assent to this proposition.

Mr. WILSON, of New Jersey, offered the following substitute, by way of amendment to the proposition of Mr. EATON, which, Mr. W. said, would answer better his view of the subject, being more specific and particular than the proviso already offered:

That nothing herein contained shall be construed as giving the assent of Congress to so much of the constitution of the State of Missouri making it the duty of the Legislatnre of said State to pass a law 'to prevent free negroes and mulattoes from coming to and settling in said State, under any pretext whatsoever,' as may be repugnant to that provision of the Constitution of the United States which prescribes that 'the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.'"

Mr. EATON said his wish was that Congress should avoid giving an opinion at all on the doubtful clause, or any particular clause of the constitution of Missouri; and the amendment offered by Mr. WILSON differed from his own in this only, that it did designate a particular feature in the constitution which was declared unacknowledged. He did not think this course so eligible as the one suggested by his own motion, and therefore could not accept the amendment in lieu of his.

Mr. PINKNEY was opposed to the amendment offered by Mr. WILSON, because the clause which it pointed out was not before Congress in any manner whatever, and he would accompany the resolution of admission with no opinion on that clause, even should the Legislature of Missouri legislate to the utmost verge of the clause. The first amendment being general, he had no objection to it.

On the question to agree to Mr. WILSON's amendment, the Senate divided, and there appeared nine only in the affirmative; so it was rejected, and the question recurred on the proviso offered by Mr. EATON.

Mr. SMITH viewed this amendment as inoffensive, and therefore had no strong objection to it; but as he saw nothing in the constitution of Missouri which was not republican and conformable to the Constitution of the United States, and of the correctness of which opinion he was convinced, without assuming any thing on the score of talents, he could satisfy any member of the Senate he could not vote for an amendment which implied a doubt of the constitutionality of that document.

The question was then taken on adopting Mr. EATON's proviso, and was decided in the negative, by yeas and nays, as follows:

YEAS.—Messrs. Brown, Chandler, Dana, Eaton, Edwards, Gaillard, Holmes of Maine, Holmes of Mississippi, Horsey, Hunter, Johnson of Louisiana, King of Alabama, Lloyd, Parrott, Pinkney, Taylor, Thomas, Trimble, Van Dyke, Walker of Alabama, and Williams of Mississippi—21.

NAYS.—Messrs. Barbour, Burrill, Dickerson, Elliott, Johnson of Kentucky, King of New York, Lanman, Lowrie, Mason, Mills, Morrill, Noble, Otis, Palmer, Pleasants, Roberts, Ruggles, Sanford, Smith, Talbot, Tichenor, Walker of Georgia, Williams of Tennessee, and Wilson—24.

The question being then stated on the resolution going to a third reading—

Mr. SMITH made a few remarks, to say that as it seemed to be the wish of the Senate to take the question without debate, he would not thwart that wish, although it might be expected of him, from his situation of chairman of the committee which reported the resolution, to enter into some defence of it against the objections which had been indicated. As a member of the Southern States, he was ready to maintain the ground he had assumed, but

would yield to the desire for a quiet decision, unless called out by gentlemen on the opposite side.

Mr. BURRILL, of Rhode Island, addressed the Chair.

[Mr. B., in attempting to rise and address the President, found his surtout entangled by his chair, and was so long detained by the embarrassment, that the Secretary had begun to call the yeas and nays, and one gentleman had actually answered. Mr. B. apologized to the President for not rising sooner, by stating the embarrassment, when Mr. BARBOUR, of Virginia, jocularly observed across the House, that the gentleman ought to regard it as an omen of defeat, and yield to it accordingly; to which Mr. B. replied: "I fear no omen in my country's cause."]

Mr. B. proceeded. No other gentleman, he said, seemed disposed to address the Senate in defence of the opinions which he entertained on this question, and as he was a member of the committee which reported the resolution, from which he dissented, it was in some measure incumbent on him to submit briefly the reasons which governed him, especially after the remarks of gentlemen on the other side. We conceive, said Mr. B., that it would be contrary to the Constitution of the United States to accept this constitution sent up by the people of Missouri. The people of Missouri did not assemble under their own authority to frame this constitution, but under the authority of Congress. After performing this duty in a way that they deemed proper, they had sent it here for acceptance, and it was the duty of Congress, Mr. B. conceived, to examine and pronounce upon the legality of the instrument presented. He stated that it had been the practice heretofore to admit the members from new States to their seats in both Houses, in various ways; but inquiry had generally been made into the constitutions adopted by new States, and Congress satisfied that they were conformable to the acts authorizing them to be formed. The States had been admitted into the Union, some in one way, some in another; the latest mode, Mr. B. thought, ought to be the one which should have most weight on the present occasion. The three States last formed had been admitted much in the same mode; their constitutions had been formed nearly in the same way, and on the same models; Louisiana only was an exception to the usual form of admission—in her case more form was observed, and obvious reasons made it necessary.

It appeared to him, Mr. B. continued, to be right and proper for Congress to examine the constitution now presented, and ascertain whether it was in conformity with the Constitution of the United States, and republican: in other words, whether it was conformable to the terms on which the people of that Territory were authorized by Congress to form a constitution and State government. Some gentlemen entertained a different opinion. New States, said Mr. B., are admitted into the Union by the consent of Congress—that consent was given to Missouri at the last session; by it she had many things to do. She had first to decide whether she would accept the terms offered to her; by it she was prohibited from interfering with the rights of navigating the Mississippi; she was confined to certain boundaries, which she could not change or exceed; she was restrained from any interference with the public lands. These things were all in the act; and Mr. B. asked if it would not be idle to insert conditions, if Congress possessed no right to ascertain and decide if they had been complied with by the people to whom they were offered? It was in the nature of a contract between the United States and the people of Missouri, and it was competent for Congress, and was its duty to see if that contract had been faithfully observed. It was held by some gentlemen that, as soon as the convention of Missouri was dissolved, it became a State, and had a right to all the immunities and attributes of a State. But suppose, Mr. B. said, the people of Missouri had taken no notice of those conditions of the act which he had referred to, but had disregarded or contravened them, would gentlemen then say the constitution ought to be received? Mr. B. offered some other arguments to show that the consent of Congress was necessary to the admission of the State; otherwise it admitted the strange doctrine, that the State might come into the Union in spite of Congress. This consent, he contended, ought not to be given, unless all the conditions of the act had been complied with.

In general, Mr. B. said, this constitution was sufficiently republican; and, in one respect, he might say, it was almost too much so; for it took no notice whatever of the act under which the convention assembled which formed it. Its language is: "We, the people of Missouri, do mutually agree to form and establish a free and independent Republic." In Alabama, where every thing in the formation of their State government was conducted with much propriety, their convention set out by saying they assembled under the authority of an act of Congress. The constitution of Missouri is entirely silent on this point, although some of its language could not be understood without referring to the act of Congress authorizing a convention; they declare that they establish, ratify, and confirm, certain boundaries, but they nowhere recognize the authority which prescribed these boundaries to them. Mr. B. repeated, that he thought Congress ought not to vary from the former mode of declaring its assent to the admission of new States. They would have to admit other States hereafter, and a departure now from the practice of the Government in receiving the constitutions of new States, would form a precedent which might, in future cases, be deplored.

But proceeding to the question, whether this constitution was such a one as ought to be

accepted, Mr. B. said his objections to it arose on the following clause, which he found in the 26th section of the 3d article: "That it shall be the duty of the General Assembly of the State, as soon as may be, to pass such laws as may be necessary (among other things) to prevent free negroes and mulattoes from coming to and settling in this State, under any pretext whatsoever." This clause, Mr. B. conceived to be entirely repugnant to the Constitution of the United States. It prohibits a very large class of persons from entering the State at all; it does not say what shall be done when they get there, but it peremptorily prohibits their entering it under any pretext whatsoever. Even if soldiers of the United States, people of this proscribed class cannot enter Missouri without violating the constitution of the State. It was well known, Mr. B. said, that we have colored soldiers and sailors, and good ones, too, but under no pretext, whether of duty or any other motive, can they enter Missouri. He did not suppose if people of this description, in the service of the country, should enter the State, it would be attempted by the State authorities to exclude them; but it was sufficient, he thought, to show the unconstitutionality of the clause.

Great difficulty seemed to arise in deciding the question, as to what constituted citizens in the different States. Citizens of one State were entitled to the rights of citizens of all the States; yet the different States exercised the power of prescribing certain probationary rules to those coming from another State, to entitle them to all the privileges. If a citizen of Massachusetts removes to another State, he cannot vote as soon as he enters it—a certain residence is required of him—and the people of Missouri were competent by law to impose a residence of one or more years on a citizen going there, to entitle him to all the privileges of citizens of the State; he complies with no more than is exacted of all, and which the State has a right to require. This was a question, however, which they did not touch; they avoided it altogether, and have declared that a certain class shall not come into their State at all, even though they may be citizens of other States, enjoying all the privileges of such.

Mr. B. did not himself conceive it difficult to define what constituted a citizen. If a person was not a slave or a foreigner—but born in the United States, and a freeman—going into Missouri, he has the same rights as if born in Missouri; after complying with the conditions prescribed by the laws to qualify him for the exercise of these rights, he stands precisely on the same footing, and his rights are in every respect the same as if he had been born there. The question then was, Mr. B. said, had the people of Missouri the constitutional right to prohibit from entering that State a large class of persons who were citizens of the Commonwealth of Massachusetts? To establish the negative of this proposition, Mr. B. adduced various other arguments in addition to the preceding, and endeavored to show that even many laws of the United States would become inoperative in Missouri, if the clause which he opposed could be maintained in force; and, as an instance, he referred to the laws against kidnapping. In regard to this crime of kidnapping, Mr. B. remarked, the constitution of Missouri had done nothing; for, according to it, all people of color who are carried there, must, *ipso facto*, be slaves, inasmuch as a free negro could in nowise go there, admitting the clause to have its full effect.

Mr. B. said he was not prepared at present to affirm that Missouri might not pass laws to prohibit persons from carrying there negro or mulatto convicts, or, perhaps, foreigners from coming into the State; this was a question on which no opinion now was necessary; but he contended that the clause as it stood prohibited the entrance of a large portion of people who were, to all intents and purposes, citizens in other States. Admit the legality of this clause, and, Mr. B. said, the Legislature of Missouri might, with the same right, go still further, and pass laws to exclude citizens born in certain portions or districts of the United States. This was a measure, he argued, which one independent nation could not adopt towards another. England could not pass such a law against the people of France, or of any other friendly nation; such a measure would be too offensive to be borne, and would be considered to amount almost to a declaration of war. If distinct and independent nations dare not enact such laws towards each other, how was it possible, Mr. B. said, that the power could be exercised by one of these States towards other States of the Union?

All the distinctions among citizens which arise from color, rested, Mr. B. said, on State laws alone—there was nothing in the Constitution of the United States which recognized distinctions. In Massachusetts there was no distinction; a man of color possessed there precisely and identically the same rights as a white man born in the same State, and he asked if it was possible for Missouri, consistently with the Constitution of the United States, to exclude any of those people from that State, who should think proper to remove from Massachusetts to Missouri? The States of this Union were not distinct and independent nations—they are, said Mr. B., a confederacy of kindred republics; when they formed their constitution of government, they used the language, "We, the people of the United States," and it is not in the power of one of the members of this confederacy to enforce the clause Missouri has adopted, and it is the duty of Congress to reject it.

Mr. B. said he would add nothing more about the right of Congress to decide this question; he would merely say, Congress must from necessity decide it; it must admit the members of Missouri; in that act the question was involved, and they were obliged, therefore, to de-

cide it. It was useless, therefore, to talk of referring the question to the judiciary. As Congress "might admit new States" into the Union, it was clear to his mind that Congress must determine the conditions on which they should come in.

Mr. B. said he would offer a few words as to the dangers which were apprehended by some gentlemen from a rejection of the constitution offered by Missouri. What were the consequences, Mr. B. asked, which would follow the rejection? The only one which he could perceive was, that Missouri must remain one year longer out of the Union. Was this such a hardship? And to avoid this trifling consequence, must we, said Mr. B., give a vote which will violate the constitution we have sworn to support, and which we are all so deeply interested in maintaining? As a Territory the people of Missouri had gone on, he said, very prosperously, and no great inconvenience could result from continuing in the territorial condition one year longer. It is said they have formed a constitution, and under it have elected a Governor and Legislature, and, having assumed the functions and character of a State, if they are not now admitted into the Union, they will go on without our consent. Mr. B. said he presumed the people of Missouri felt the same attachment to the Union, and to the tranquillity, and honor, and glory of it as we do; and he would not believe, he would not do them the injustice to believe, that rather than endure the small inconvenience of retaining the territorial character a few months more, they would rashly throw away all the interest they had in the greatness and glory of their country. They might possibly still think that their constitution ought not to have been rejected on account of this offensive clause, and may feel some excitement on the occasion; yet they must see the necessity and propriety of some sacrifice to the conscientious opinion of Congress, and would consent to qualify their constitution in the objectionable feature. But, said Mr. B., if we ratify it as it is, we establish a precedent and admit a point that the judiciary will never be able to overthrow; do not then leave to another tribunal the decision of a question which belongs to us, but let us meet and decide it ourselves.

If the constitution were not accepted, Mr. B. said it would be easy to obviate any difficulty by passing an additional act authorizing the people of Missouri to form another convention and revise their constitution; and he was confident this odious feature would be expunged. These people, Mr. B. said, were not Missourians, properly so distinguished, but were Americans, collected there from all the States, the same people as ourselves. They would appreciate the motives of Congress, and do them justice; they would recollect, also, that this act passed in a spirit of compromise and accommodation, from a desire to preserve peace and quietness in every part of the Union; and re-assembling with such views, finding the clause could do no good, they would repeal it. Sanction this improper clause now, said he, and you sanction it for all time to come; and however we may desire hereafter to avoid it, it will be irrevocably established.

Mr. B. said the little he had spoken had exhausted his strength, and he could add nothing more if he wished to do so.

When Mr. B. had concluded—

Mr. SMITH, of South Carolina, intimated an intention of replying to Mr. B.; but, as he would have to refer to several constitutions and other authorities, in the course of his argument, he asked a short time to prepare them, and moved the postponement of the subject until to-morrow; which motion prevailed, and it was postponed accordingly.

FRIDAY, December 8.

Missouri State Constitution—Citizenship of Free Colored Persons.

The Senate then resumed the consideration of the resolution declaring the admission of the State of Missouri into the Union on an equal footing with the original States.

Mr. SMITH, of South Carolina, addressed the Senate, as follows:

He observed that, on any subject, however interesting it might be, he could not flatter himself with a hope that he could entertain the Senate. But, what he had to offer at present, on this very important occasion, would consist very much of references, and he feared might prove tedious; therefore he felt more necessity than on most occasions to ask for a little patience and their kind indulgence.

The resolution declaring the admission of Missouri into the Union, he thought, was nothing more than a matter of form, and might be dispensed with. He had examined the journals of the Senate and House of Representatives for the course heretofore pursued by Congress on the admission of new States into the Union, and found it had been various. He would give their history.

Vermont was the first new State admitted after the adoption of the Federal Constitution. On the 9th of February, 1791, President WASHINGTON laid before Congress documents received from the Governor of Vermont, expressing the consent of the Legislature of New York, and of the Territory of Vermont, that the said territory shall be admitted to be a distinct member of our Union.* On the 18th of the same month† an act of Congress was approved for the admission of Vermont into the Union, without any of this formality, that her constitution should be republican, &c. The act says, "Vermont, having petitioned Congress, &c., on the 4th day of March, &c., shall be received and admitted into this Union, as a new and entire member of the

* Senate Journal, 241.
† Public Laws, 2d vol. page 193.

United States of America." On the 31st of October following, Mr. Robinson took his seat in the Senate,* and on the 4th of November Mr. Bradley took his seat.† There was no constitution either submitted to, or required by, Congress. Nor were there any traces of a constitution of that new State to be found previous to the 9th of July, 1793. Congress never supposed at that day they had a power to require a constitution from a new State coming into the Union, nor to examine if such constition was republican. Mr. S. said he knew very well that the people of that respectable State contend it was one of the original States. We know of none but thirteen original States. Vermont would have made fourteen; and it was treated of, and so called at the time, as a territory. It was detached from New York, and, by the express consent of the Legislature of New York, she was received into the Union.

Kentucky was the next new State admitted into the Union. On the 18th of December, 1789, and after the adoption of the Federal Constitution, the Legislature of Virginia passed the act authorizing Kentucky to form a separate State.‡ On the 4th of February, 1791, Congress passed an act of consent that Kentucky should become a separate State, and be admitted into the Union on the first day of June, 1792. On the 19th of April, 1792, its constitution was formed, but was never submitted to Congress.§ On the 5th of November, 1792, Messrs. Brown and Edwards, as Senators from that State, took their seats in the Senate, without even an inquiry for a constitution.

Tennessee formed her constitution on the 6th of February, 1796. This was the first constitution of a new State submitted to Congress. There does not appear to have been any reference made of this constitution to any committee, or any other order taken upon it. There is to be found in the debates of the 5th and 6th of May, 1796, an objection made to one provision of that constitution, inasmuch as it was repugnant to the Constitution of the United States. This objection was made by a member from South Carolina, and was replied to by Mr. Baldwin of Georgia, "that, if repugnant to the Constitution of the United States, it was a nullity, because the Constitution of the United States was paramount." And this appears to have put an end to the objection.

Ohio was the next new State adopted into the Union. On the 30th of April, 1802, the law passed authorizing Ohio to form a constitution and State government. On the 29th of November, 1802, she formed her constitution.¶ On the 7th January, 1803, it was laid before the Senate, and was referred to a committee, which never reported on it.* On the 19th of February, 1803, Congress passed a law "to provide for the due execution of the laws of the United States within the State of Ohio."† In this last law, it is declared that, by the law of 30th April, 1802, authorizing the people of the Territory of Ohio to form a constitution and State government, Ohio had become one of the United States of America. This law says nothing about her being admitted into the Union on an equal footing with the original States; but simply says, "whereby the said State has become one of the United States of America."

Louisiana was authorized, by an act of Congress of the 20th of February, 1811, to form a constitution and State government, and formed her constitution on the 28th January, 1812. On the 8th of April, 1812, was admitted into the Union by a law.‡ This was the first State admitted with formality. The new mode of declaring this State to be admitted, by law, seems to have been dictated from motives of interest. Louisiana had within her limits the Mississippi and other valuable navigable rivers. By that law, which admits her into the Union, the free navigation of all those rivers is secured forever to all the old States, free from "any tax, duty, impost, or toll;" whilst the old States retain the right to these exactions, and some of them do actually exact it. The State of New York now exacts, as a toll, one dollar upon every passenger in the steamboats that go up the North River, and derives from that source an immense revenue, laying the whole United States under contribution; whilst her own citizens are navigating the Mississippi and its waters, under the act of Congress, without being subjected to any such duty. And this is what they have been pleased to call admitting her "into the Union upon an equal footing with the original States, in all respects whatsoever."

Indiana was admitted into the Union by a joint resolution of both Houses of Congress, on the 11th of December, 1816; but its history proves beyond a doubt that it was considered a State, to all intents and purposes, before the resolution passed. An act in the usual form had passed for its admission; and it had, by a convention, formed a constitution on the 20th of June, 1816. Congress assembled on the 2d of December, 1816; on that day the House of Representatives admitted Mr. Hendricks, the member elect, to take the oath of office, and take his seat in the House. On the 4th, the resolution originated in the Senate; on the 6th it passed; was sent to the House on the 9th, and passed that day—eight days after the member had been admitted to his seat; nor had the House of Representatives ever taken up the subject at all. On the 11th, the resolution was

* Vide 1 vol. new ed. Senate Journal, 882.
† Ib. 836.
‡ Laws of the U. S. 3d. vol. 191.
§ Ib. 192.
‖ Vide Journal, 451.
¶ Laws of the U. S. vol. 3d, page 496.

* Vide Senate Journals.
† Laws U. S. page 524.
‡ Laws U. S. vol. 4, page 402.

approved. Here, it is evident there was a great falling off in vigilance; but, it is to be remarked, we were going north about. Louisiana could not be admitted by any thing less solemn than a law. Indiana did not require a resolution, for the House of Representatives at least. On the 12th of February, 1817, the Presidential votes were counted in the Representatives' Chamber, whither the Senate, in a body, had gone for that purpose. All the votes of the several States were counted, except the votes of Indiana. Here Mr. S. said, he would read from the Journals of the House of Representatives, what passed on that occasion, as there were several gentlemen of the Senate who had taken their seats since.*

Mr. S. said, in consequence of this proceeding, the Senators had a very solemn procession down the stairs and up again, and there it ended; for they unanimously concurred in considering it so frivolous that they forbid it a place on the Journals. The Electors of President and Vice President were elected by the State of Indiana, and the electoral votes given before the resolution was offered for its admission into the Union. This act was solemnly sanctioned by both Houses of Congress. It was the highest act which a State, in its political capacity, can perform. Who, then, can doubt for a moment that Indiana was a State, as perfect as it is possible for this Government to make? If Indiana was so, why should not Missouri be so, under the same circumstances? It cannot be doubted. She is a State, and you cannot disfranchise her. But, it is said she cannot be admitted into the Union, because her constitution is repugnant to the Constitution of the United States, and is not republican; and that Congress, by the Federal Constitution, is to guarantee to every State a republican form of government; therefore, it is the province of Congress to examine for this quality in the constitution of any State which applies for admission into the Union.

If, sir, Congress has to decide upon the republican form of government of the new States, it has also to decide upon it for all the old States. The language of the constitution is, "the United States shall guarantee to every State in this Union a republican form of government." This applied immediately to the old States; and, if it is the duty of Congress, why did not Congress examine all the constitutions of the several States? Why not require each State, when it alters or new-models its constitution, to submit it to that tribunal to decide whether it is republican? Nine of the States have altered their constitutions since the adoption of the Constitution of the United States. New Hampshire, in February, 1792; Connecticut, in September, 1818; Vermont, in July, 1793, or rather formed one; Pennsylvania, in September, 1792; Delaware, in June, 1792; Maryland, at sundry times; South Carolina, in June, 1790; Georgia, in May, 1798; and Kentucky, in August, 1799. None of these States have ever submitted their renewed constitutions to Congress for its approbation. It is the duty of Congress, under the term "guarantee," to look into any constitution. Who will be bold enough to say it is not its duty to see that no State shall alter its constitution, but by its permission and authority? It would be to little purpose to say the United States shall guarantee the republican form of government, unless its control can be continued. Every State has the power to revise its constitution whenever it shall think proper. And, if you look at the constitution of Missouri to-day, and pass it as republican, and that State should alter it to-morrow, and destroy its republican features, and defy your control, this power has been given to very little purpose, and had much better been withheld.

Mr. S. said, upon looking into the constitution of the thirteen original States, he had discovered that Rhode Island had no constitution; nor had she ever any. She has what the good people of that State call the "charter of Rhode Island," granted by King Charles the Second; in which he has made certain reservations, as an acknowledgment of his sovereignty. And throughout the whole instrument, the people are treated of, and called subjects. They can have no claim to a republican form of government under such a charter.

Why, then, does not Congress issue its writ of *quo warranto* to the Governor or the Legislature of Rhode Island, calling on them to show by what authority they claim to be one of the United States? Or to show cause, if any they can, why that State should not be disfranchised for holding her government under a foreign Prince? Or else issue some process to compel her to form such a constitution as shall guarantee to her a republican form of government? Congress has as much power to do this as it has to reject the constitution of Missouri.

* Journal H. R. 2d session, 14th Congress, pages 385, 386, 387.

"When the President of the Senate was about to open the votes of that State, for the purpose of having the same counted,

"Mr. Taylor, one of the Representatives from the State of New York, rose, and objected to the same, and stated that, in his opinion, the votes of the Electors of Indiana, for President and Vice President, ought to be received.

"Upon which objection being made, the Senate, on motion of one of its members, withdrew; and, being absent, a resolution was then submitted by Mr. Sharp, in the following words:

"Resolved, by the Senate and House of Representatives, &c., That the votes for the electors *for the State of Indiana, for President and Vice President of the United States*, were properly and legally given, and ought to be counted.

"A motion was made by Mr. Taylor, of New York, to amend the said resolution, by striking out all thereof after the enacting clause, and inserting the following: 'That the votes of the Electors of the State of Indiana, for President and Vice President of the United States, having been given previous to the admission of that State into the Union, *ought not to be received and counted.*' And debate arising thereon, a motion was made by Mr. Ingham, that the resolution be postponed indefinitely. And the question being taken thereon, it passed in the affirmative.

"The Senate again attended, &c. And the President of the Senate, in the presence of both Houses, proceeded to open the certificates of the Electors of the State of Indiana, which he delivered to the tellers, by whom it was read, and who took lists of the votes therein enclosed."

If Congress has the power to guarantee the republican form of government, and it can only be exercised when a State presents itself for admission into the Union, there ought to be a uniformity in its course. The same State of Rhode Island refused to adopt the Federal Constitution for some time after the organization of this Government. Then Rhode Island stood precisely on the ground on which Missouri now is said to stand. Missouri is a State, but it is said is not in the Union; Rhode Island was a State, and acknowledged on all hands to be out of the Union at that time. Why did not Congress exercise this salutary control when Rhode Island came into the Union; and abrogate her English charter, and give her a constitution, with at least some semblance of a republican form of government in it, and blot out the odious words, sovereign and subject, monarchical vestiges which still characterize it? It is evident, to a demonstration, that Congress is not the tribunal to decide this constitutional question. It must be left to the judicial department, whose province alone it is to judge the private rights of individuals. There are no governmental rights to be involved, but the rights of persons only, if any; and shall Congress erect itself into a tribunal to investigate whether by chance some free negro or mulatto, fifty years hence, might suffer, and put this whole Union in jeopardy? He viewed such a crisis with awe. Mr. S. said he would be amongst the last to invoke it, but we could not shut our eyes upon what was going on in the northern section of this Union. At the time they were fulminating their threats to dissolve the Union, if Missouri should be admitted into it, they were declaring to the world that the Southern States were endeavoring to intimidate, but would not dare to disturb the Confederacy. One printer, of Philadelphia, tired of waiting for some post of honor or profit under the old government, has divided the Union on paper, and laid out a snug government for himself and his friends, under which, perchance, he may be better provided for. Another fellow has called himself Patrick Henry, and writes as if it belonged to him to dissolve this empire, if he should so will it. He intends to bring about in this country a succession of Patrick Henrys, in imitation of the Cæsars of the Roman world; and he is to be Patrick Henry the second. This Patrick Henry the second has declared if Missouri with her constitution is received, it is of itself a dissolution of the Union. If ever this Union is disturbed, it will be by such monsters as these. It is not here that revolution is to commence; it is to begin with the people, by means of misrepresentations—by imposing on their honesty. Let those who are fanning this flame beware of the consequences. If the torrent begins to roll, there is no telling where it is to stop.

We are told this constitution is not republican; therefore it cannot be sanctioned, because it is the duty of the Government to guarantee to every State of this Union a republican form of government. The evidence of this, it is said, is manifested in the third and fourth clauses of the twenty-sixth section of the third article of the constitution of Missouri, which authorizes the Legislature to pass laws "to prevent free negroes and mulattoes from coming to and settling in this State under any pretext whatsoever."

The Convention, which formed our Federal Constitution, has not been as explicit as we could wish in defining what a republican form of government is. But we have always understood that sort of government which is administered by the people to be a republican form of government, and does not obtain nor lose this form when the free negroes and mulattoes are excluded from a participation. This is a case *sui generis*. The history of the ancient world furnishes no precedent. The Grecian Republics abounded in slaves; but they had no share in the political concerns of the nation. Sparta was said to approach nearer to a pure democracy than any other government that ever existed. Yet they had slaves in thousands and hundreds of thousands, who had no share in political affairs. They were white, and what of them were not sold to foreign nations, or butchered by their masters, who had the absolute control over their persons and lives, without account, were finally suffered to mingle with the free men, and became one people. But the difference of color forbids that course with us, and will operate as a perpetual barrier, until time shall overcome it. Although they are not slaves themselves, who were prohibited by this constitution to settle in Missouri; yet they are the late offspring of slaves, and have been placed and considered in the body politic upon the same footing and no other. Their parents were slaves during the Revolutionary war. They were in a state of slavery from Boston to the St. Mary's, laboring in your fields. It was not then slaveholding States and non-slaveholding States, but all were slaveholding States. It is true since that time the Northern States, finding it their interest to do so, have sold the greater part of them to the Southern people, and have freed the rest. These freed negroes and mulattoes are now, for the first time, called citizens of the United States; and are, it is said, by the Constitution of the United States, entitled to all the privileges and immunities of citizens of the several States.

As no example is to be found in the history of any other nation, and this being the first time this question has occurred in our own Government, whether free negroes and mulattoes are, as such, citizens, must be ascertained by such evidences as, from the nature of things, we are compelled to give the highest credence to. Mr. S. said this was to be found in the Constitution and laws of the United States, and in the constitutions or laws of the several States. They furnish a mass of evidence, which nobody could doubt but a sceptic, that free negroes and mulattoes have never

been considered as a part of the body politic; neither by the General Government nor the several State governments. All their laws, and all their constitutions, contain marked distinctions by which this class of people are excluded from all participation in your political institutions; not in the Southern States, but in the Eastern States, the Northern States, and the Western States. Almost all the States in the Union have excluded them from voting in elections. There is no State that admits them into the militia. Very few States admit them to give evidence. No State had passed any law constituting them citizens. Mr. S. said he would not inquire in what department the power existed, if it existed anywhere, whether in the State governments or in the General Government, to naturalize them; but at present neither the one nor the other had done so; and, until some supreme power should do so, they could not claim "the privileges and immunities of citizens of the several States." He would now ask the Senate for their further indulgence, till he could examine this subject more minutely, from the written documents themselves, which he would beg leave to read severally. In doing so, he would begin with the Declaration of Independence itself. This sacred instrument says: "We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness."

If this was a declaration of independence for the blacks as well as the whites, why did you not all emancipate your slaves at once, and let them join you in the war. But we know this was not done. We know that slavery was as much cherished in Massachusetts, and the other New England States, as it was anywhere else in the Union. In fine, there was a universal consent, at that day, that these people were slaves, and were our personal property, and had no share in the body politic. No gentleman will now be bold enough to say otherwise. New York is yet seeking for remuneration from the British Government for their slaves, by that name, which were plundered from that State during the Revolutionary war. The very constitution under which we are now assembled, which was formed for the better cementing the Government, derived from that Declaration of Independence, has not only sanctioned the slavery which then existed in the United States, but, by the ninth section of the first article, expressly permitted the whole of the States, twelve years after this Declaration of Independence, to open their ports to the African slave trade for a succession of twenty years. But it is said these free negroes and mulattoes are citizens. The most of them were born slaves, and the act of manumission by the masters could not constitute them citizens. If the master can make a citizen, it must be by some other process than his sign manual on paper. By the act of Congress, passed on the 14th of April, 1802, to establish a uniform rule of naturalization, the Congress itself has guarded against naturalizing any but white population. The first clause of the act is these words: "That any alien, being a free white person, may be admitted to become a citizen of the United States, or any of them, on the following conditions,"* &c. The Government of Hayti was then an independent Empire; and why were they excluded this privilege, if all men were created equal?

Mr. SMITH said he would now examine the constitutions of those States which had been admitted into the Union since the adoption of the Federal Constitution; the most of which had passed under the eye of Congress, and had their solemn sanction; and would show how assiduously they had kept up the distinction between the white and black population, and how carefully the colored people were excluded from all share in the affairs of the body politic in the State governments.

In the eighth section of the second article of the constitution of Kentucky, are these words: "In all elections for Representatives, every free male citizen, (negroes, mulattoes, and Indians, excepted,) &c., shall enjoy the right of an elector."

In the first section of the seventh article of that constitution it is said: "The General Assembly shall have no power to pass laws for the emancipation of slaves without the consent of their owners, or without paying their owners a full equivalent in money for the slaves so emancipated."

In the first section of the fourth article of the constitution of Ohio, it is said: "In all elections, all white male inhabitants, &c., shall enjoy the right of an elector."

In the constitution of Louisiana, it is said: "No person shall be a Representative who, at the time of his election, is not a free white male citizen of the United States."

This constitution was submitted to Congress, and was examined with more than ordinary vigilance. So much so, that the State could not gain admittance into the Union without passing a very special and a very rigid law; in which Louisiana was laid under injunctions imposed on no other State, before or since. Yet, with all this vigilance, she is suffered to exclude from the right of representing the State, all colored people. If there are black and yellow citizens, how could Congress permit that constitution to exclude from so valuable a privilege men who, perhaps, had all the requisites of a representative except that of color? Who can estimate the difference between being denied a residence in a State, or denied the valuable privilege of being a representative, or even the right of being represented?

In the 1st section of the 3d article of the constitution of the State of Mississippi, you find the same in substance. The words are, "Every

* Laws of the United States, 3d volume, page 475.

free white male person, &c., shall be deemed a qualified elector."

In the 1st section of the 2d division of the 6th article of the same constitution, are the words: "The General Assembly shall have no power to pass laws for the emancipation of slaves without the consent of their owners." Mr. S. observed, that he read this last part of that constitution because it was nearly in the same words as the 26th section of the 3d article of the constitution of Missouri, to which he had heard great objections because it prevented the desirable work of emancipation. When the constitution of Mississippi was before the Senate, only three years ago, there was not a dissenting voice, nor a murmur in the community.

In the constitution of Indiana, which passed the scrutiny of the Senate only four years ago, in the 1st section of the 1st article, it is said, "That all men are born equally free and independent, and have certain natural, inherent, and inalienable rights; among which are the enjoying and defending life and liberty, and of acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety."

How very incompatible would these two clauses of that constitution appear, if it were not for that universal assent which prevails throughout the Union, that free negroes and mulattoes are not known in your political institutions. This is a more marked distinction than any of the preceding. They, for the most part, say, "free white male," &c., but this is simply a distinction between white and black, with the utter exclusion of the colored man. What citizen of the United States would prefer this degrading distinction to exile? The people of Indiana had been eulogized by a gentleman of the Senate, (Mr. KING, of New York,) on this very question, at the last session of Congress, and, Mr. S. said he believed, very deservedly, as a wise and prudent people. These people could have had no prejudices from habitual slavery. They had been nursed in the lap of freedom. When that territory was ceded by Virginia to the United States, there was a stipulation to exclude slavery; notwithstanding which, their men of color are excluded from any portion of political rights. As a further evidence of the degraded condition of free negroes and mulattoes, in Indiana, below that of a citizen, he would beg leave to read a law of that State, passed about two years after it was elevated from its territorial government. He read as follows: "No negro, mulatto, or Indian, shall be a witness, except in pleas of the State against negroes, mulattoes, or Indians, or in civil cases where negroes, mulattoes, or Indians, alone, shall be parties." They have, by another clause of the same law, graduated the mulatto. It says, "Every person other than a negro, of whose grandfathers or grandmothers any one is, or shall have been a negro, although all his other progenitors, except that descending from a negro, shall have been white persons, shall be deemed a mulatto, and so every person who shall have one-fourth part or more of negro blood, shall in like manner be deemed a mulatto." Can any possible doubt exist that the people of Indiana consider that free negroes and mulattoes are not citizens?

Mr. S. said he would now beg leave to advert to some laws of Congress, of recent dates, which would show, as strongly as can be shown, that Congress have not only believed them to be degraded below the level of citizens, but have actually placed them there, by their laws. Congress required all territorial laws to come under its revision, and particularly so the laws of the Territory of Orleans, before it became the State of Louisiana. By one of the territorial laws of Orleans, of the 7th of June, 1806, it is enacted, "That free people of color ought never to insult or strike white people, nor presume to conceive themselves equal to the white; but, on the contrary, that they ought to yield to them on every occasion, and never speak or answer to them but with respect, under the penalty of imprisonment, according to the nature of the offence."* This is a law which passed under the immediate inspection of Congress.

He would now turn to the act of Congress, of last session, which passed on the 15th of May, 1820, and not long after the heated debate upon the bill for admitting Missouri into the Union, when the minds of all the members were filled with this subject, for incorporating the inhabitants of the City of Washington, &c., by which they were continued to be a body politic and corporate. In this act is to be found these words: "Any person shall be eligible to the office of Mayor who is a free white male citizen of the United States."† In another part of the same act it says, "That no person shall be eligible to a seat in the Board of Aldermen, or Board of Common Council, unless he shall be more than twenty-five years of age, a free white male citizen of the United States," &c. In another part of that act, in enumerating the powers of the corporation, it is said it shall have full power and authority "to prescribe the terms and conditions upon which free negroes and mulattoes may reside in the city."

Mr. SMITH observed, that, when this law was before the Senate, it was thoroughly investigated by an honorable gentleman from the East, (Mr. BURRILL.) Seeing it in such hands, he paid but little attention to it himself; but he found, upon examining it, free negroes and mulattoes were not only excluded from all share in the offices, but were placed under the inspection of the corporation, to prescribe the terms and conditions upon which they may reside in the city. Giving power to prescribe the terms, is, in effect, giving power to expel. This is an unanswerable proof of the degraded condition in which Congress consider free negroes and mu-

* Territorial Laws of Orleans, vol. 1, p. 188, 190.
† Acts 1st session 16th Congress, page 14.

lattoes ought to be placed. With this strong and peculiar example before their eyes, well might the people of Missouri conceive they had a right to provide against this evil. The example is peculiar, because Congress have sat here for the last twenty years; during which time, he had understood, a swarm of mulattoes had been reared in the city; many of whom, no doubt, had as illustrious fathers as any in the nation. These mulattoes have been under the parental care of Congress, until some of them have nearly arrived to the years of maturity; and, if their education has been equal to their parentage, might, in a few years, fill the mayoralty with great dignity. Instead of which, they are now to be placed at the disposal of a petty corporation. All their hopes are blasted, and themselves drove to seek their fortunes in the wilds of Missouri, on account of their color. And shall a mulatto to whom Congress will deny a residence in the City of Washington, unless he is specially licensed by the corporation, be considered by that same Congress, if he will only emigrate to the State of Missouri, entitled to all the privileges and immunities of the most distinguished citizens of the United States?

He supposed gentlemen who contended for the rights of these sable brethren in Missouri, and who had denied them a residence at Washington, could have no objection to see one of them returned as a member of this honorable body. And if they are entitled to all privileges and immunities of the citizens of the several States, wheresoever they would go, it would be infringing much upon the republican principle to refuse them this honor. Had Christophe, the famous chief of Hayti, come to some sections of our country, before he blew his own brains out, if he could have obtained the naturalization which our free negroes and mulattoes have done, by a residence merely, he might, under the spirit of these times, soon have found his way here. He had seen in this morning's paper some high encomiums on his rival and successor, Boyer, his present Majesty of Hayti, by a correspondent of his, in the State of Connecticut, who seems to invite an alliance with his Excellency. This correspondent thinks it would be very useful to this country.

In the very law which authorized Missouri to elect the convention which formed the constitution now before you, is the following provision: "that all free white male citizens of the United States, &c., shall be qualified to be elected, and they are hereby qualified and authorized to vote and choose representatives to form a convention."* We find nothing in that law for the free negroes and mulattoes. Mr. S. said he had not been able to obtain the statute laws of Ohio and Illinois, but was informed that both those States had laws imposing penalties upon, and degrading free negroes and mulattoes. So far he had confined his observations and references to the Declaration of Independence, the Constitution and laws of the United States, and to the constitutions and laws of such of the separate States as had been formed, under the authority, and since the adoption of the Federal Constitution. He had done so for the purpose of showing the uniformity of sentiment and of action, which had so invariably prevailed, on every political occasion, to give a decisive character to the degraded condition of free negroes and mulattoes. He had, as yet, offered no evidence derived from the laws and constitutions of the original States. He would now do so, and see how far they maintained the arguments of the gentleman from Rhode Island, (Mr. BURRILL,) that the constitution of Missouri is repugnant to the Constitution of the United States, and wants the republican form, which it is the duty of Congress to guarantee; because it provides for prohibiting free negroes and mulattoes from going to, and settling in that State. We were taught to believe that no State in the Union, besides Missouri, had had the boldness to restrain the ingress or egress of any citizen; or that any distinction had been made between the white citizens and the yellow and black citizens. He would endeavor to show the gentleman's arguments were incorrect. In this examination he would pass by all those States which held slaves. It was known, and would be admitted, that each of them had, either in their laws or constitution, deprived free negroes and mulattoes of all the political rights of citizens; such as denying them the right to vote at elections; or depriving them of the liberty to give evidence against a white person; forbidding them to bear arms; and several of these States have compelled them to depart, and forbidden them to return. For this we have been often reproached. To proceed with the course he had laid out to himself, he would begin with New Hampshire.

New Hampshire had said in her constitution "that all men are born equally free and independent. Have certain, natural, essential, and inherent rights—among which are the enjoying and defending life and liberty," &c.

In the year 1808 she passed a law to regulate her militia, in which it is, amongst other things, enacted "that each and every free able-bodied white male citizen of this State, resident therein, who is, or shall be, of the age of sixteen years, and under the age of forty, &c., shall be enrolled."

If the white man and the black man are born equally free and independent, and have the same natural rights, &c., among which are the enjoying and defending his life and liberty, how is the colored man to defend his life if he is prevented from the means given to the white man? This absurdity is so palpable that no man will attempt to reconcile it. No other conclusion can result, but that New Hampshire, too, has yielded her assent, that free negroes and mulattoes are not citizens; but that these governments are constituted of white citizens only. A man deprived of his arms, or deprived of the

* Laws 1st session 16th Congress, page 14.

means of using them as his fellow-citizens do, is deprived at least of half his defence. Republican New Hampshire would never do that.

He would next examine the laws and constitution of Vermont. Although this was one of the new States, on account of her local situation and political habits, he had classed her with the States in her neighborhood.

Vermont, also, had said, in the first article of her constitution, "that all men are born equally free and independent, and have certain natural, inherent, and inalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety."

She passed a law on the 10th of March, 1797, to regulate the militia. In which it is also enacted: "that every free able-bodied white male citizen above the age of eighteen, and under forty-five, &c., shall be enrolled,"* &c.

The defending life and protecting property, by the appointment of Heaven, must depend upon our physical powers. And will the State of Vermont, which knows so well the benefit of arms, strip, by law, a portion of her citizens of this essential means of defending life and protecting property? This, like the case of New Hampshire, proves that they have free negroes and mulattoes in Vermont, but have no black or yellow fellow-citizens there.

Vermont, as far as the decisions of one State could go, had decided the political right which each State possesses, of expelling, by law, the citizens of any other State, if any should be rash enough to attempt to go there to reside. The 19th article of her constitution, which was ratified on the 9th of July, 1793, is in the following words: "That all people have a natural and inherent right to emigrate from one State to another that will receive them."

In pursuance of this authority, in their own constitution, Vermont, on the 6th November, 1801, passed a law to exclude, not only free negroes and mulattoes, but the citizens of every description, male and female, of the other States. It says: "The selectmen shall have power to remove from the State any persons who come there to reside. And any person removed, and returning without permission of the selectmen, shall be whipped not exceeding ten stripes."†

He could not conceive how Vermont could possibly say, that the constitution of Missouri was repugnant to the Constitution of the United States, because it forbids a residence to free negroes and mulattoes, when its own laws and constitution forbid a residence to the most respectable citizens of all the other States. Unless they considered the whipping to be a saving clause, which might distinguish it from the Missouri case. However desirable a country Vermont may be, Mr. S. said, he believed there would be but few, either black or white, who would become citizens, until there should be some other mode of naturalizing than at the whipping-post.

Mr. S. said, the more he examined the subject the better he was satisfied that the great and respectable State of Pennsylvania, however mistaken he might think her policy, for indiscriminate emancipation, had had more benevolent views than any other State in the Union. They had examined it more than any other, and knew the rights of free negroes and mulattoes better, and defended them with more zeal. For the purpose of showing what was the opinion entertained in her Legislature, at its last session, of the right of States to prohibit the migration of free negroes and mulattoes, he would read from the journals of that body, which he then held, a resolution, offered by two of its well-informed and respectable members.

"A motion was made by Mr. Kerlin and Mr. G. Robinson, and read as follows, viz.:

"*Resolved*, That the Committee on the Judiciary system be instructed to inquire into the expediency of prohibiting the migration or importation of free negroes and mulattoes into this Commonwealth."*

This resolution was not acted on, but it shows the opinion of Pennsylvania, itself, upon the right which Missouri claims. And this resolution, it is observed, was presented on or about the 20th of January, 1820, at the very moment that Legislature passed a unanimous resolution for instructing their Senators, in Congress, to oppose the admission of Missouri into the Union, unless under the restriction of prohibiting slavery, when their minds were alive to the subject.

He said he would now examine the laws of Rhode Island, for she had no constitution, upon the subject of negroes and mulattoes generally. By one of their statute laws it is said: "The town council shall, if any free negro or mulatto shall keep a disorderly house, or entertain any person or persons at unseasonable hours, break up his house, and bind him out to service for two years."†

If all were citizens, why not bind out a white brother citizen as well as a black or yellow one? The nature of the offence was certainly the same, and, it is reasonable to conclude, ought to be punished in the same way. By another clause of the same statute, it is enacted:

"That no white person, Indian, or mulatto, or negro, keeping house in any town, shall entertain any Indian, mulatto, or negro servant or slave; if he does, to be punished by fine,"‡ &c.

Another clause of the same statute says, in treating of Indian, negro, and mulatto servants or slaves:

"That none should be absent at night, after nine o'clock. If found out, to be taken up and committed to jail till morning, and then appear before a justice of the peace, who is or-

* See Laws of Vermont, 2 vol., page 122.
† Laws of Vermont, 1 vol., page 400.

* See Journal, page 341.
† Laws of Rhode Island, pages 611, 612.
‡ Laws of Rhode Island, page 614.

dered and directed to cause such servant or slave to be publicly whipped, by the constable, ten stripes."*

In the same statute book is a law of a more rigid character. It is in these words:

"That whosoever is suspected of trading with a servant or slave, and shall refuse to purge himself by oath, shall be adjudged guilty, and sentence shall be given against him."†

Our Northern friends had taken great liberties with the Southern people concerning the rigid manner of treating their slaves. But this is a refinement upon any thing of that sort to be found in the statute books of the Southern States. You can find no law for selling or binding out a free negro or mulatto, for entertaining his friends at what the town council might think an unseasonable hour. But to judge a man guilty and sentence him, if you suspect him, unless he will purge himself upon oath, is a stretch of political power, not known in any of the United States but Rhode Island. It was a species of despotism. This, however, must be added to the catalogue of evidence, which irresistibly shows that Rhode Island, as well as the other States, never intended to put free negroes and mulattoes upon the footing of citizens. Otherwise the laws would not sell the man of color for what the white man may commit without notice. Mr. S. said, this discussion would be useful in one respect, if injurious in another. We should understand the laws and constitutions of our neighboring States. Until this question was agitated he had been led to believe that slaves, as well as free negroes and mulattoes, in the Northern States, were as unrestrained as their masters. He now had the consolation to know that the laws of South Carolina, at least, were more mild on this subject than the laws of Rhode Island. Gentlemen might say these laws were repealed for aught he knew; if they were, he knew nothing about it. He had not yet heard they were repealed; he had found their statute books, which contain these laws, in the law library attached to the Senate Chamber. He supposed some of them may be growing obsolete since they sold the greater part of their slaves to the people of the Southern States.

He would now examine the evidence the respectable State of Massachusetts would afford us in illustrating this subject; and would first advert to her constitution. In the first section of the first article are to be found the following words:

"All men are born free and equal, and have certain natural, essential, and inalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking their safety and happiness."

This declaration of rights comprehends all that a citizen could ask, for but no more than he is entitled to. And it gives to every citizen the same rights. Who will deny the right of every man, according to this constitution, to remain within the State, if he is a citizen, as long as he pleases? Who will say that marriage, to whomsoever the citizen shall think proper, if each party is agreed, is not a right of the highest importance? To grant this right to one citizen, and take it from another, would be giving to one and taking from the other the means of his happiness, which the constitution secures to him so emphatically. By a law of Massachusetts, passed the 6th of March, 1788, and which appears to have been revised in 1798, and again in 1802, it is expressly enacted—

"That no person, being an African or negro, other than a subject of the Emperor of Morocco, or a citizen of the United States, to be evidenced by a certificate, &c., shall tarry within this Commonwealth for a longer time than two months; if he does, the justices have power to order such person to depart, &c.; and if such person shall not depart within ten days, &c., such person shall be committed to the prison or house of correction. And for this offence, &c., he shall be whipped, &c., and ordered again to depart in ten days; and if he does not, the same process and punishment to be inflicted, and so *toties quoties*."

This *toties quoties*, we all understand to mean that he shall be whipped as often as he returns. Many, or at least some of the States, have passed laws to regulate the solemnization of marriage, which they have a right to do. Massachusetts, on the 15th of June, 1795, passed a law for the orderly solemnization of marriage, &c., from which the following is an extract:

"That no person by this act authorized to marry, shall join in marriage any white person with any negro, Indian, or mulatto, on penalty of the sum of fifty pounds, two-thirds part thereof to the use of the county wherein such offence shall be committed, and the residue to the prosecutor, to be recovered by the treasurer of the county, &c., and the said marriage shall be null and void,"* &c.

Massachusetts emancipated her slaves, what she had not sold off, at a pretty early period after the Revolutionary war. Those alluded to must be free negroes and mulattoes. Massachusetts we all know to be a republican State, and to have a republican form of government. She had been called the cradle in which the Revolution had been rocked. Her early achievements in that Revolution had been conspicuous. The battles of Bunker Hill and Concord would be spoken of by posterity with delight. She had been famed for her men of eloquence, and he had the pleasure to say, without flattery or irony, that he believed justly. She had the most numerous legislative body of any State in the Union—her number of representatives was about six hundred. Amidst such a multitude

* Laws of Rhode Island, page 614.
† Laws of Rhode Island, page 615.

* Laws of Massachusetts, vol. 1, pp. 323-4.

of council, is it possible for one member to believe for a moment, that such a law could have passed, to prohibit a citizen to marry whomsoever he could gain the affections of? Or is there a man in Massachusetts who will say that marriage is not an essential happiness? If it is not secured to every citizen, where is their declaration of rights? We must look for the reason of this law, as in all the other States, in the universal assent to the degraded condition of that class of people, and from which none of the States would, perhaps, ever think it expedient to raise them. From the ranting of some enthusiasts, and the jeerings of some politicians, Mr. S. said, he had been led to believe there were no mulattoes in the New England States. But looking into their statute books, he found they were numerous; so much so, as to become the subjects of legislative control, and that a long time ago. It appears they were breeding them as far back as 1788, and he did not know how much earlier, but he supposed as long ago as when they began to import the Africans into Portsmouth, in the State of New Hampshire.

As the laws and constitution of Connecticut would give some aid in illustrating this question, he would refer to them.

In the first section of the first article of that constitution, are the following words:

"That all men, when they form a social compact, are equal in rights."

In the second section of the sixth article of that constitution, it is said: "Every white male citizen of the United States, &c., shall be an elector."

This constitution was formed on the 15th of September, 1818. The good people of that State called the convention which formed that constitution, for the express purpose of making it republican. Nor will any one doubt but that the citizens of Connecticut and their constitution are republican. But how can the constitution be republican, if their free negroes and mulattoes are citizens and not entitled to all the privileges and immunities of citizens in the several States? All men cannot be equal in rights, and be deprived of all these rights, or any of them, and still be called equal, without a gross violation of the rights it declares to be sacred. Such absurdities cannot be ascribed to the wise men of Connecticut, who so recently formed this constitution. And they must be ascribed to them, if the free negroes and mulattoes are citizens, and deprived of the elective franchise. We have been taught to consider it the highest privilege of a freeman. Some extracts from the laws of that cautious and prudent people will throw much light on the question of State sovereignty, and the powers of a State to prohibit the ingress of persons from other States. By a law of the State, published in 1792, and which was since the adoption of the Constitution of the United States, they have carried their powers much further than those assumed by Missouri for excluding the free negroes and mulattoes. He would read the extracts, which he had taken from their statute books. The first was in these words:

"That when an inhabitant of any of the United States (this State excepted) shall come to reside in any town in this State, the civil authority, or major part of them are authorized, upon the application of the selectmen, if they judge proper, by warrant under their hands, directed to either of the constables of said town, to order said persons to be conveyed to the State from whence he or she came,"* &c.

Another part of the same law, in further execution of the foregoing principle, says:

"The selectmen of the town are authorized to warn any person, not an inhabitant of this State, to depart such town, and the person so warned, if he does not depart, shall forfeit and pay to the treasurer of such town one dollar and sixty-seven cents per week. If such person refuses to depart, or pay his fine, such person shall be whipped on the naked body, not exceeding ten stripes, unless such person departs in ten days."

"If any such person returns, after warning, he is to be whipped again, and sent away again, and as often as there is occasion."†

No argument can be drawn from the facts that Missouri makes constitutional provisions to deprive a citizen of his right of residence, and that of Connecticut is only by law. There is no man of sense and honesty, too, who will venture to say a State may prohibit by a law those whom the constitution protects. It would be nugatory to protect a right by the constitution, if you can destroy it by law. The constitution of a State is paramount to all other of its laws. Then, if Connecticut can prohibit the citizens of other States from remaining or residing in that State, by a law, they will certainly permit Missouri to exclude free negroes and mulattoes by their constitution. Nor could he be easily brought to believe that a citizen of Connecticut would not rather be entirely forbidden to reside in any State to which he might remove, than to be whipped out of it after he had got there. Is it not absurd, to a demonstration, for the people of a State to say the constitution of Missouri is not republican, because it provides for excluding free negroes and mulattoes from a residence, when their own laws, recently enacted, exclude all the citizens of all the rest of the Union? South Carolina, some years ago, passed a law to prohibit slaves from the Northern States, when they were selling them to the Southern people, from coming into that State; but there was an exception in favor of the servants of public functionaries and members of Congress. The laws of Connecticut do not exempt the members of Congress themselves, much less their servants. A member of Congress, going from the Southern States to Connecticut, would not conceive himself very highly honored if put under an escort of town constables; nor could he well sup-

* Laws of Connecticut, page 240.
† Laws of Connecticut, page 241.

pose the honor enhanced by being whipped on the naked body if he should happen to return that way.

Another law of that State, published in 1796, concerning free negroes, mulattoes, and negro, mulatto, and Indian servants, is worth notice. One clause says:

"Whatsoever negro, mulatto, or Indian servant, shall be found wandering out of the bounds of the town or place to which they belong, without a ticket, or pass, in writing, to be taken up," &c.

By another clause there is a distinct and degrading restraint laid upon free negroes. It says:

"No free negro is to travel without a pass from the selectmen or justices."

So careful have they been to restrain this degraded class of people, in the same law it is provided:

"That every free person shall be punished by fine, &c., for buying or receiving any thing from a free negro, mulatto, or Indian servant," &c.

If free negroes and mulattoes are citizens, why this distinct restraint on their right of locomotion more than on a white citizen? If citizens, why restrained from travelling without a pass? Who is authorized by the Constitution of the United States to prescribe the terms to a particular class of citizens, by what means they shall be suffered to pass? And who shall interdict the rest of the community from buying or receiving from a particular poation of citizens, if they are citizens?

The great and respectable State of New York would afford us some light also upon this subject. In the 42d article of the constitution of that State we find the following words:

"And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare, that it shall be in the discretion of the Legislature to naturalize all such persons, and in such manner, as they shall think proper."

This remains a prominent part of the constitution of New York. She has reserved to herself, or to her Legislature, the sole right to naturalize all such persons as they shall think proper. They, perhaps, may have the power to do so; but they ought to be candid enough, at least, to allow Missouri to naturalize such persons, and in such manner as they may think proper, also. Her powers are co-ordinate. But, so far is the Legislature of New York from this, that whilst she retains the power herself, she not only denies it to the State of Missouri, but has sent her resolutions of instructions to her Senators, which now lie on your table, to endeavor, by all means, to disfranchise her for attempting to exercise this right upon free negroes and mulattoes only. With what grace she can do so let the world judge. Her citizens, too, are declaring in their bulletins, that, for this defect in the Missouri constitution, she ought to be rejected, and if admitted, it will, of itself, be a complete dissolution of the Union of the States.

By a law of New York, passed the 8th of April, 1801, they have shown, in the most emphatic words, the power which each State retains, of excluding from their limits all and every person who shall come therein. Nor are their means for imposing this power the least energetic. This power they have not limited to exclusion of free negroes and mulattoes only, as Missouri has done, but they have extended it to every class of citizens, of every age, sex, and denomination. He would read the several clauses. The first is in these words:

"If a stranger is entertained in the dwelling-house or out-house of any citizen for fifteen days, without giving notice to the overseers of the poor, he shall pay a fine of five dollars."*

This clause goes to punish any hospitable man who shall have the rashness to entertain a stranger. Whatever may be the custom of the people of that State, the laws deny to a stranger even the rights of hospitality. The next clause comes a little closer to the stranger. He would read it. It is in these words:

"If such person continues above forty days, the justices can call on all the inhabitants of the town or city, and the person may be sent to jail, &c. And the justices may cause such stranger to be conveyed from constable to constable, until transported into any other State, it from thence he came."†

This stranger may be a man of the purest morality, the most accomplished manners, extensive fortune, or most finished education; or he may be an object for the exercise of charity; it is immaterial which—he is put into the hands of a constable, who hands him to his brother constable, and so he goes on, until they hand him out of the State of New York. This is the first legal entertainment which a gentleman or lady, for they are to be entertained pretty much alike, are subjected to when they visit the State of New York, if they remain forty days. There was another clause, if they made a second visit, which entertains them in a different style. It is in the following words:

"If such person returns, the justices, if they think proper, may direct him to be whipped by every constable into whose hands he shall come; to be whipped, if a man, not exceeding thirty-nine lashes, and if a woman not exceeding twenty-five lashes. And so as often as such person shall return."‡

It may be said, this law was only intended to guard against transient poor from other States. The rights of a poor man are and ought to be held, if he is a citizen of the United States, as sacred as the rights of the rich man. But this law itself has made no distinction. The constitution authorizes the Legislature to naturalize in such manner as they shall think proper. If this was the manner of naturalizing, and no other appeared yet to have been

* Laws of New York, vol. 1, p. 568.
† Laws of New York, vol. 1, p. 568.
‡ Laws of New York, vol. 1, pp. 568, 569.

adopted, to be whipped at the public whipping-post by every town constable into whose hands he should come, it was not so very inviting to foreigners; and it was more than probable that but few would like the certificate, as the registry is to be made on the back of the man, by thirty-nine lashes, (Moses's Law:) of the woman, by twenty-five lashes. It has been remarked by enlightened travellers, that the attention to ladies is in proportion to the civilization and refined manners of nations. New York has given in this law a proof of *her* refinement of manners by *their* marked attention to ladies, as they are to receive fourteen lashes less than the gentlemen.

However romantic this may all appear, it is literally true that such a law is not only to be found in the statute books of New York, but has been enacted twelve years since the adoption of the Constitution of the United States, is now in full force, and is constantly practised upon; by which they can drag from the State the most worthy gentleman or lady of the United States, by the rude hand of town constables; and, if they should dare to return, can make them hug the whipping-post. Yet, with this gigantic stretch of power in full exercise by their own State, the people of that State are riding foremost in the cause of the wandering vagabond free negroes and mulattoes with a view to thrust them upon others, or with some other more unkind view.

If this concatenation of constitutional and legal authorities, beginning with the Declaration of Independence itself, and running through the Constitution and every law of the United States, wherever the subject could occur, or be acted on, as well as a voluminous concurrence of the State constitutions and State laws, all bearing directly on this question, without a solitary case to be found to contravene them, when combined with that universal sentiment and universal rule of action of the whole of the white population of the whole nation, denying positively all the precious and valuable privileges of citizenship to free negroes and mulattoes, would not demonstrate that they were not citizens, he knew no human proof which could comprehend it.

SATURDAY, December 9.

Restriction of Slavery.

Mr. TICHENOR communicated the following resolutions of the Legislature of the State of Vermont; which were read:

STATE OF VERMONT,
*In General Assembly, Nov.*15, 1820.

The committee, to whom was referred so much of his Excellency's speech as relates to the admission of the Territory of Missouri into the Union as a State, submit the following report:

The history of nations demonstrates that involuntary servitude not only plunges the slave into the depths of misery, but renders a great proportion of community dependent and wretched, and the remainder tyrannic and indolent.

Opulence, acquired by the slavery of others, degenerates its possessors, and destroys the physical powers of government. Principles so degrading are inconsistent with the primitive dignity of man, and his natural rights.

Slavery is incompatible with the vital principles of all free governments, and tends to their ruin. It paralyzes industry, the greatest source of national wealth, stifles the love of freedom, and endangers the safety of the nation.

It is prohibited by the laws of nature, which are equally binding on Governments and individuals. The right to introduce and establish slavery in a free government does not exist.

The Declaration of Independence declares, as self-evident truths, "that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that, to secure these rights, governments are instituted among men, deriving their just powers from the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it."

The Constitution of the United States, and of the several States, have recognized these principles as the basis of their governments, and have expressly inhibited the introduction or extension of slavery, or impliedly disavowed the right.

The powers of Congress to require the prohibition of slavery in the constitution of a State, to be admitted as one of the United States, is confirmed by the admission of new States according to the ordinance of 1787, and by a constitutional "guarantee to every State in the Union of a republican form of government." This power of Congress is also admitted in the act of March 6, 1820, which declares that, in all that territory ceded under the name of Louisiana, which lies north of thirty-six degrees thirty minutes north latitude, "slavery and involuntary servitude shall be forever prohibited."

Where slavery existed in the United States, at the time of the adoption of the Constitution of the United States, a spirit of compromise, or painful necessity, may have excused its continuance; but can never justify its introduction into a State to be admitted from the Territories of the United States.

Though slavery is not expressly prohibited by the constitution, yet that invaluable instrument contains powers, first principles, and self-evident truths, which bring us to the same result, and lead us to Liberty and Justice, and the equal rights of man, from which we ought never to depart. "In it is clearly seen a deep and humiliating sense of slavery," and a cheering hope that it would, at some future period, be abolished—and even a determination to do it.

It is apparent that servitude produces, in the slave-holding States, peculiar feelings, local attachments, and separate interests; and, should it be extended into new States, "it will have a tendency to form a combination of power which will control the measures of the General Government," and which cannot be resisted, except by the physical force of the nation.

The people of the United States adopted the constitution "to form a more perfect union of the several States, to establish justice, to secure domestic tranquillity, provide for the common defence, promote the

general welfare, and secure the blessings of liberty;" and have thereby blended, and inseparably connected the interests, the safety, and welfare, of every State in the Union. We, therefore, become deeply concerned in the fundamental principles of the constitution of any new State to be admitted into the Union. Whatever powers are necessary to carry into effect the great objects of the Union are implied in the constitution, and vested in the several departments of the General Government.

The act of the United States authorizing a provisional admission of Missouri into the Union as a State, does not pledge the faith of the Government to admit whatever may be its constitution or system of State government; for that constitution, by the act, must be republican, and not repugnant to the Constitution of the United States.

From information, it is to be seriously apprehended that Missouri will present to Congress, for their approbation, a constitution which declares, that "the General Assembly shall have no power to pass laws —first, for the emancipation of slaves, without the consent of their owners, or without paying them, before emancipation, a full equivalent for such slaves so emancipated;" and, "secondly," to prevent emigrants from bringing slaves into said State, so long as slavery is legalized therein.

It is also made the imperious duty of its Legislature to pass laws, as soon as may be, "to prevent free negroes and mulattoes from coming to, and settling in, that State, under any pretence whatever."

These powers, restrictions, and provisions, to egalize and perpetuate slavery, and to prevent citizens of the United States, on account of their origin, color, or features, from emigrating to Missouri, are repugnant to a republican government, and in direct violation of the Constitution of the United States.

If Missouri be permitted to introduce and legalize slavery by her constitution, and we consent to her admission, we shall justly incur the charge of insincerity in our civil institutions, and in all our professions of attachment to liberty. It will bring upon the Constitution and Declaration of Independence a deep stain, which cannot be forgotten or blotted out. "It will deeply affect the Union in its resources, political interests, and character."

The admission of another new State into the Union with a constitution which guarantees security and protection to slavery, and the cruel and unnatural traffic of any portion of the human race, will be an error which the Union cannot correct, and an evil which may endanger the freedom of the nation.

Congress never ought, and we trust never will, plant the standard of the Union in Missouri, to wave over the heads of involuntary slaves, "who have nothing they can call their own, except their sorrows and their sufferings," and a life beyond the grave, and who can never taste the sweets of liberty, unless they obtain it by force or by flight. Nor can a community made up of masters and slaves ever enjoy the blessings of liberty, and the benefits of a free government; these enjoyments are reserved for a community of freemen, who are subject to none, but to God and the laws.

The committee, therefore, submit for the consideration of the General Assembly the following resolutions, viz.:

Resolved, That, in the opinion of this Legislature, slavery, or involuntary servitude, in any of the United States, is a moral and political evil, and that its continuance can be justified by necessity alone.

That Congress has a right to inhibit any further introduction or extension of slavery, as one of the conditions upon which any new State shall be admitted into the Union.

Resolved, That this Legislature views with regret and alarm the attempt of the inhabitants of Missouri to obtain admission into the Union, as one of the United States, under a constitution which legalizes and secures the introduction and continuance of slavery; and also contains provisions to prevent freemen of the United States from emigrating to and settling in Missouri, on account of their origin, color, and features. And that, in the opinion of this Legislature, these principles, powers, and restrictions, contained in the reputed constitution of Missouri, are anti-republican, and repugnant to the Constitution of the United States, and subversive of the inalienable rights of man.

Resolved, That the Senators from this State in the Congress of the United States, be instructed, and the Representatives requested, to exert their influence and use all legal means to prevent the admission of Missouri, as a State, into the Union of the United States, with those anti-republican features and powers in their constitution.

Resolved, That the Secretary of State be requested to transmit a copy of the foregoing report and resolutions to each of the Senators and Representatives from this State in the Congress of the United States.

Admission of Missouri—Citizenship of Free Colored Persons.

The Senate resumed the consideration of the resolution declaring the consent of Congress to the admission of the State of Missouri.

Mr. HOLMES, of Maine, addressed the Chair as follows:

Mr. President, it is not my intention to trouble the Senate with any remarks on that part of the constitution of Missouri which recognizes the right to hold slaves. The act of the last session has settled that question; and, in spite of the reasoning in the Vermont memorial just read, and the authority from whence it emanates, I feel bound by a solemn compact to admit Missouri, unless it is manifest that her constitution is repugnant to that of the United States. The honorable gentleman from Rhode Island (Mr. BURRILL) who opposed this resolution, gives up the ground of restriction; and I understand that he, and other gentlemen who think with him on that subject, would consent to the admission of Missouri, if her constitution does not contravene any provision of the Constitution of the United States, nor the act of last session which authorizes her admission. The honorable gentleman from Rhode Island did, to be sure, suggest some objections not strictly consistent with this admission, on which he did not seem to place much reliance, and which probably were not, in his mind, insuperable. He thinks it was improper, and somewhat indecorous, that the act was not incorporated in the constitution, or at least referred to by the convention as the ground of their proceedings.

But, if they have complied with the provisions and conditions of the act, it is equally binding as if they had recited the whole, and the constitution itself is more concise, explicit, and intelligible.

Another objection is, that the constitution of Missouri allows emigration from the State, but prohibits free blacks and mulattoes from coming in and settling. This is charged upon Missouri as an inconsistency. But surely there can be nothing inconsistent in this. The people are forming a compact, and one of its provisions is, that those members of the State who shall become dissatisfied may abandon it. "Go," they say, "when you please, and where you can. We give you no warrant to break open the doors of our neighbors and force them to receive you against their consent. We allow no such liberties to be taken with us." This is the substance of the provision. It surely is neither inconsistent nor illiberal.

Passing by these objections, which were not urged with much confidence or zeal, I come to that which is principally relied on. Free negroes and mulattoes are to be prohibited by law from coming to and settling in the State; and this, it is contended, contravenes that clause of the Constitution of the United States which provides that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

The honorable gentleman from Rhode Island contends that this prohibition would exclude them from entering the State, even without an intent to settle. This construction makes the clause consist of two distinct prohibitions, the one against entering, the other settling; and this absurdity would result—that the legislature should prohibit free blacks without from coming in, and free blacks within from settling. The true construction is—that they are not to be permitted to come in and settle.

It is true that it is made imperative on the legislature to exclude free blacks and mulattoes, and they are not to be admitted to settlement in the State, under any pretext whatever. Had the expression been *all* free blacks and mulattoes, the legislature could have made no exceptions. But the omission of the word "all" leaves them a discretion; and other provisions in their constitution limit the extent of the prohibition, and expound its meaning.

All purchasers of lands in Missouri, previous to the law enacted under this clause, are expressly provided for. A purchase of lands by deed is "a contract executed." The covenants in the deed secure to the purchaser the right to hold, possess, and enjoy. Should the purchaser be lawfully excluded from the possession, the covenant or "contract" is broken. If the State by law excludes a purchaser from his possession, it impairs the obligation of the contract. In the celebrated Georgia case in relation to the Yazoo purchase, it was determined that a law annulling a precedent sale was void, as impairing the obligation of a contract. And whatever law takes from a purchaser the benefit of any covenant in his deed is void, being repugnant to the Constitution of the United States. Now, there is the same clause in the constitution of Missouri as in that of the United States. Any law, therefore, which should exclude a precedent purchaser from the enjoyment of his purchase, would be contrary to a provision in the bill of rights of Missouri. Wherefore, taking these two provisions together, the meaning is this; "the legislature shall exclude free blacks and mulattoes, provided they are not purchasers of lands within the State."

This reasoning will apply to all soldiers who hold under the United States, and all subsequent purchasers under them will be also excepted by another provision in the constitution of Missouri. Among the terms and conditions in the act of last session, Missouri is never to interfere with the primary disposal of the soil by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona fide* purchasers. Now, a title is never perfected, or "secured," unless the purchaser has, not only the rights of property and possession, but the possession itself. To prohibit a purchaser under the United States from enjoying the possession, would most unquestionably interfere with those regulations which Congress might adopt to secure the title to the purchaser. But it is still more manifest that it would be an interference with the "primary disposal" of the soil. Could Missouri, without a violation of this compact, provide that no purchaser of the United States lands in the State should possess or enjoy it? If not, how can she prohibit any portion of purchasers from this possession or enjoyment? If, in the sale of a dwelling-house, which I had the right to prevent, I should covenant not to interfere, should I fulfil my covenant by prohibiting the purchaser from entering and inhabiting it? Here, then, is a positive stipulation made a part of the constitution of Missouri, and unalterable without the consent of Congress, which expressly excepts from the prohibition all purchasers of the United States. The whole power given, then, taken in connection with the rest of the constitution, is to exclude free blacks and mulattoes from the State, except purchasers of every description, before the act of exclusion, and purchasers of the United States, whether before or after. Inasmuch, then, as we find express limitations to this power, and the word "all" not inserted in the prohibition, and the members of the legislature bound by oath to support the Constitution of the United States, would it not be fair to expound this clause to extend to those cases only which are not repugnant to this constitution?

Having, as it is believed, ascertained the extent and meaning of the clause objected to, let us, before we proceed to a discussion of the part of the Constitution of the United States said to be infringed, glance for a moment at some of the inconveniences which would result

from denying to a State the power to exclude free blacks and mulattoes.

These are an unfortunate class. They, or their ancestors, having been subjected to the control of a master, are most of them ignorant and poor, and many of them infirm, decrepit, and vicious. Their vices and frailties render them an encumbrance, if not a nuisance, wherever they reside. It is just that the evils arising from such a population should be sustained by those who have had the benefit of their labor, and who have contributed in some measure to their degradation. To confine them to the State by whose laws they or their ancestors were enslaved, and compel that State to administer to their relief without imposing a burden on their neighbors, comports as well with justice as humanity. These reasons have prevailed in almost every State in the Union, and have produced exclusive laws of the same character and principle, and of greater extent, than the offensive clause in the constitution of Missouri. The people of Missouri, possessing a territory whose soil and products would not admit of a numerous slave population, whose extent and climate would afford facilities to emigrants, and whose vicinity to States and Territories having a crowded black population, would induce an inundation of this description of people, have thought it prudent, the better to facilitate the emancipation of their own slaves, and to improve the condition of their own free blacks and mulattoes, to prohibit their emigration from other States.

If a State does not possess this power, the condition of the non-slaveholding States is most alarming. A free black population is fast increasing and gaining upon the whites, in the slaveholding States. An asylum for these unfortunate people is now become important, and will be more so. This has been an object of solicitude with all the colonization and abolition societies, and all the friends of freedom and humanity. Slaves would be manumitted if they could be transported. But to let them loose among an already crowded free black population, would make them miserable and dangerous. Send them to St. Domingo, you subject them to the disposal of a cruel tyrant; transport them to Africa, and they are food for pestilence; colonize them on the Columbia River, and they will be butchered and eaten by the Indians.

To this time, no suitable place has been found which afforded a safe and comfortable retreat for the emancipated slave. But this doctrine has solved the doubt and removed the difficulty. Free blacks are citizens and may go where they will, or where their emancipators shall please to send. All the slaves in a State may be made free at once, on condition of their removal to a non-slaveholding State, and this State cannot prevent it. The New England States are probably in little danger from this principle. It is the States bordering on the slaveholding States which will experience its tendency and effect. Ohio, Indiana, and Illinois, are now thinly populated and little cultivated. Vast tracts of land in them are owned by the United States. The State of Virginia, for example, might purchase some millions of acres and parcel them out in small lots, as gratuities to her free blacks who should emigrate and settle them. Such an event would probably create no uneasiness at first, in a State which had the power at any time to prevent it. The non-slaveholding States might even for the sake of humanity encourage it, having a discretion at all times to check it when it should become dangerous. But to be forced, against our will, to receive free blacks from the slaveholding States, is a doctrine that I, as a Northern man, do not so fully relish, and to which I cannot subscribe without the fullest examination and strongest necessity. This effect has been perceived, and some have attempted to avoid it by making a distinction between free and *freed* blacks. The former only having been born free, it is said, are citizens. The latter are a degraded class, not entitled to the privileges and immunities of citizens, and can therefore be prohibited from entering and settling in a State. This distinction is entirely visionary. It neither comports with reason nor humanity. It is the local authority, the State sovereignty which makes a slave. The same supreme power which deprives a man of his freedom can restore it, and restore it, too, in its highest perfection. The same power which makes a slave can make him free, and advance him to the highest privileges of a citizen. If this power does not exist in the States, it exists nowhere; and this absurdity would necessarily follow, that there is no power in this country to convert a slave into a citizen. The Constitution of the United States gives no such right to Congress. They have the power to establish uniform rules of naturalization; but naturalization is the converting a foreigner into a citizen. To suppose an emancipated negro, whose ancestors had resided here ever since the settlement of the country, and who had never quitted the plantation where he was born, could be made a citizen by naturalization, and in no other way, is an absurdity too gross and palpable to be seriously entertained. It hence follows, inevitably, that an emancipated slave may, if the State will it, be placed on the same footing as any other free black, and one may be a citizen as well as the other. The State which gave them their freedom for purposes of emigration would take care to obtain its object by breaking down this distinction if it ever existed.

The honorable gentleman from Rhode Island disregards this distinction, and takes broader ground still. His definition of a citizen comprehends all the inhabitants except slaves and foreigners. With free blacks and mulattoes, he includes convicts, dissolute persons, paupers, and vagabonds. Yet he seems to admit that a State may exclude for personal demerit. And who establishes the standard of merit, and

makes the discrimination? The State. By what rule is it governed? Discretion, policy, expediency. It is the State law which defines who are worthy of a residence within the State. What, then, becomes of his definition, but that it includes all but those which a State may, in its discretion, except? If a State can fix a name of disgrace or demerit on any population, and exclude them, the point is yielded that free blacks may be excluded.

If this definition of the honorable gentleman be correct, it would be much the safest inference that one State might exclude all the population of another, except those which the Constitution of the United States specially authorizes. Self-protection seems to require that a State should retain the power to prevent a troublesome or dangerous population. In doing this, they might exclude those who are useful and respectable. Of this there is no danger. The State from which they would emigrate, would not wish to spare them; and that to which they would come, would always find it for its interest to receive them. The Constitution of the United States would provide for all who have a duty to perform under that constitution, and the laws; members of Congress, and judges of courts, must perform federal duties. The President must command the army and navy, and the militia, when in service; the soldiers must be called to suppress insurrection and repel invasion. To all these and others, having federal duties to perform, the constitution says "go;" and a State cannot oppose. The clause of the Constitution of the United States said to be infringed by this of Missouri, by no means repels this construction. The citizens of one State are to enjoy "all the privileges and immunities of citizens," when "*in*" another. The State is left at its option whether it will receive the citizens of another as residents. It may impose restrictions which amount to prohibition; but if the citizen does come, by express or implied consent, this clause secures him "the privileges and immunities," and subjects him to the duties and disabilities of citizens.

I do not say that this construction admits of no doubts or difficulties. But I do say, that, upon this broad definition, it is the safest and most consistent with the practice and rights of the States. And I can never admit the principle that free blacks of any description, and to any extent, may fix their residence in a State against its consent.

The honorable gentleman from South Carolina, (Mr. SMITH,) with much talent and industry, has given us a history of the practice, and proved that this power claimed by Missouri has been exercised by nearly every State in the Union, and the right has never before been questioned. The subject has been so fully and ably presented, that no further time need be occupied in discussing it.

Permit me now to take a different view of the subject, and endeavor to present a construction of the constitution which will avoid the difficulties.

Gentlemen, I apprehend, reason from wrong premises. In the broad and comprehensive definition of citizen, lies the error. Let us endeavor to select a meaning for the word which will comport with the constitution, the practice, and the convenience. The Constitution of the United States has nowhere defined it; it occurs on five different occasions in that constitution—in prescribing the qualification of Representative, Senator, and President, in giving jurisdiction to the Federal Court, and in the controverted clause. In the three first cases, no one will pretend that it is to be taken in this unlimited sense. That the framers of the constitution intended that blacks and mulattoes might be members of Congress or Presidents, is a supposition too absurd to be for a moment entertained. Gentlemen, with all their humanity, to be obliged to sit in this Senate by a black man, would consider their rights invaded. The section of the constitution which gives jurisdiction to the courts, uses it in a different sense, but gives it no precise definition. If all entitled to be parties to suits are citizens, and those only, then a large and respectable portion of the community are excluded, and probably resident foreigners included. The word here is inaptly used, and intended in this case to mean the same as inhabitant. The laws of Congress are as deficient in furnishing a meaning as the constitution. But, as the naturalization laws have uniformly restricted the right to become citizens to free *white* persons, so far as practice is to influence a decision, it is in favor of the constitutionality of the objectionable clause.

The word was never used by the ancient Republics, but to include privileges and immunities of a high character. In the Grecian States, these privileges were preserved with much tenacity, and conferred with much solemnity. The Romans divided their inhabitants into citizens, subjects, freedmen, and slaves. To be a Roman citizen was a proud distinction, and carried with it privileges and immunities of the highest order. After the subversion of the Roman Empire, and some time in the eleventh century, cities began to be established or incorporated in Europe, and first in Italy, and the inhabitants entitled to their freedom and liberties were called citizens. These, principally, were to elect and be elected, and to bear arms in their own defence, under commanders of their own choice.

The best definition of citizen, according to European writers, which I have been able to find, is "a native or inhabitant of a city, vested with its freedom and liberties." The "freedom and liberties," or "privileges and immunities," essential to a citizen, were those I have mentioned; and, although the name was originally confined to the inhabitant of a *city*, yet when these principles were diffused among, and conferred on, the inhabitants of the *country*, they,

having the same attributes, took the same name.

The rights of an American citizen are essentially the same: to elect, be elected, and bear arms in his defence; they are essential, for, divest him of these, and you divest him of his citizenship. He has other essential rights, such as those of property and personal security under the protection of laws fairly administered; but he has these in common with foreigners, and in some respects with slaves. No person can be said to be entitled to the privileges of an American citizen, unless he can have an agency in the formation or administration of the laws; that agency may be prospective, but a perpetual exclusion from this deprives him of the essential attributes of a citizen; but these attributes are conferred or withheld by the will of the State, legally or constitutionally expressed; a citizen, therefore, has his character from the State of which he is a member; the State may deprive him of it, and again restore it back; as it can totally destroy it, so it can create it in its highest perfection. It would seem, then, inevitable that, inasmuch as the privileges of citizenship are conferred or withheld by each State at its will, they may be and almost unavoidably must be different in different States. The question then presents, what "privileges and immunities" of citizens have the free blacks of Missouri? And we see at once they have none. By the charter which you made for them, free blacks can neither elect nor be elected, and this disability is made perpetual by their constitution. By the existing territorial laws they cannot bear arms without being housekeepers and having a license from the civil authority; nor act as jurors in any case, nor testify as witnesses, except in suits between persons of their own color. The free black of Missouri, then, has no privileges of citizenship there. Then, can a free black citizen of Maine have any greater privileges or immunities in Missouri, than her own free blacks? Does a citizen of one State going to another carry his political condition with him, or assume that of the State where he goes? The former principle breaks down every qualification required by a constitution of a State, and authorizes one State to confer privileges for the whole. No gentleman has, I believe, pretended to insist on such a construction. A citizen of Maine entitled to elect and be elected, goes to Virginia; the constitution of Maine made him an elector without property and with a year's residence; that of Virginia requires a freehold and further residence; does he instantaneously become an elector in Virginia, or must he be subjected to the disabilities of Virginians conditioned like him? He must submit of course to the laws of the State to which he goes. But in Maine a free black is a citizen; he goes to Virginia—can he there have any other privileges and immunities than the free blacks of Virginia? By the same rule, certainly not; if he could, the free blacks of Virginia might emigrate to Maine, tarry a year, become electors there, and return, bringing with them the elective franchise, which they could exercise in spite of the constitution of Virginia. A person, then, going from one State to another, takes all the privileges and immunities, and is subject to all the restraints and disabilities as to residence, property, age, and *color*, of the people of the State where he goes. If, then, free blacks and mulattoes going into Missouri, could have no privileges and immunities of citizens when there, she has a right to exclude them. Their right to go is only by inference. They are entitled, you say, to certain privileges and immunities when there; and, therefore, they have a right to go. We answer, they are entitled to no privileges and immunities of citizens, when there; and therefore Missouri has a right to exclude them.

A contrary decision would moreover be against all precedent, and the constant practice of most of the States in the Union. When a contest for power between the United States and a State occurs, it becomes this Senate jealously to guard those rights which it was constituted to preserve. The tendency of the Federal Government is to acquire by slow and imperceptible encroachments on the rights of the States—one acquisition may succeed another until there shall be nothing left.

It is, furthermore, unusual strictly to scrutinize every clause of a constitution of a new State, on her admission into the Union. Reject a State for one objectionable clause, and, if you err, the error cannot be easily corrected. Admit her, and if a clause is repugnant to the Constitution of the United States, it is inoperative and void, and would be annulled by a judicial decision. The State would be, in the Union, pruned of the offensive limb, and the residue of her constitution would remain.

This is a question which may be very safely trusted with the Judiciary. Who are the parties to the compact in the act of last session? The United States and Missouri. Missouri contends that she has complied with the terms, and demands a fulfilment on our part. We refuse, and charge her with a failure to fulfil her stipulations. Who is to decide? Will we insist on deciding our own case, or will we consent to the decision of an umpire? There is no risk on *our* part in submitting the question to the Supreme Court. In questions of State and Federal powers, they have, I believe, never been suspected of leaning very far in favor of the former. Indeed, it is not in the nature of men placed as they are to do it. Their origin, compensation, responsibility, and pride, all forbid it. If the people of Missouri are willing to submit to this tribunal, we act not as an honorable man would act with his neighbor if we refuse.

But suppose you insist on the objection. Is it by any means certain that you may not produce a state of things perplexing, if not dangerous? I do not pretend that Missouri will

resist your authority. My fear is, that you cannot agree to exercise it.

Suppose a case, not improbable—suppose Missouri rejected by a disagreement between the two Houses of Congress—one branch believing that she has complied with the conditions, is a State, and entitled to admission; the other believing that she has failed to comply, and must retire back to her territorial condition. You promised Missouri two things—a State government, and admission into the Union. She is in the enjoyment of one, and demands the other. One House of Congress is willing she should enjoy the other, and the other House refuses, and demands that she should yield up what she has obtained. One House having a negative on the other, what could be done? The necessity should be strong, and the case clear, before I would hazard such a state of things. But, so far from the case being clear, and the necessity strong, it is manifest, I think, that you have no power, and, if you had, it is not only unnecessary, but impolitic and unsafe, to exercise it. The propositions upon which I have insisted, and endeavored to maintain, are these:

The "privileges and immunities" of citizens are nowhere extended to free blacks and mulattoes, by the Constitution of the United States nor laws of Congress.

The constitution and laws of the States are alone capable of conferring them.

The State of Missouri has not conferred them on this class of her population.

Black citizens of other States acquire no other privileges and immunities there than her own black population.

But the latter are not citizens there, nor are the former; and as the former could have no privileges and immunities of citizens there, they may be excluded.

Mr. OTIS, of Massachusetts, said that, in presenting to the Senate a few general observations upon the question before them, he would take leave to begin where the honorable gentleman, (Mr. HOLMES,) who had just sat down, had left off. That gentleman had enlarged upon the consequences to be apprehended from the rejection of Missouri under her present constitution, in terms adapted to excite alarm. But while he admitted that, in all cases, where discretion can be exercised, the consequences of measures, as they might affect not only the welfare but the feelings of the people, and their disposition to execute the laws, should justly be regarded; yet when the dictates of conscience, and the obligation of oaths, and language of the constitution, left no alternative, it was the part of those who had duties to perform to discharge them with firmness, after due deliberation, and to trust to the consequences and effects. This would be his course, under any view to be imagined, of the reception of the fate of their application for admission by the good people of Missouri. But he did not permit himself to indulge any fears of such results as had been intimated. His respect for that people, and his persuasion of their knowledge of their true interests, banished from his mind every suspicion of a temper that would lead them to adopt rash and violent measures, and embroil themselves with the Union upon a question of constitutional law, which it would be so much easier to settle by an amicable adjustment. He was sorry that the question had arisen, and had presumed that the people of Missouri would have placed themselves in a condition to claim their admission, upon the ground of a compliance with the terms held forth to them by Congress; and thus to have disarmed the opposition of such of the former minority as might have considered those terms binding on the public faith. But this they had not done, and, although some inconvenience might be attached to the course they had taken, the only remedy could be found in a course of reasonable and moderate measures on the part of themselves and their friends.

The resolution upon the table, said Mr. O., contains a proposition, which Congress is either bound to adopt of course, as a ministerial act, or upon which they are entitled to exercise a sound discretion. But propositions of the first description, calling upon Congress to register the acts of another State, and to do, *pro forma*, what was already done in substance without their consent, were, as he humbly conceived, anomalies entirely unknown to the constitution, and not recognized by any rules or proceedings of this House.

Under the sanction of an act of Congress, the people of Missouri have been authorized to form a constitution, subject to certain limitations and conditions, and thereupon to become an integral part of the Union. How, then, is it possible to advance a step without reading and examining their constitution, and deciding upon the fact whether or not they have complied with these terms? To a certain extent, he presumed, this investigation would be admitted on all sides to be indispensable; without it, who can tell whether she has confined herself within the prescribed territorial limits? Who would know that she had not extended her claim of jurisdiction to the Rocky Mountains? We may also be entitled to ascertain whether she has established a republican or a monarchical government; whether she arrogates the power of making peace and war, regulating commerce, collecting imposts, or other powers inhibited in express terms of the constitution to the several States. If, then, we not only may carry our researches thus far, but should be bound in duty not to shut our eyes against these flagrant assumptions of power, who will say where the line of discrimination begins, and class under their proper heads those invasions of the constitution which we are held to notice, and those at which it behooves us to wink?

Gentlemen who deny this right of Congress to decide upon a question placed before them for decision, insist with great vehemence that Missouri is a State, and, of consequence, that

her members are entitled to their seats; and if she be not a State, they call upon us to describe her actual condition, and to say what she is. But, to say nothing of the inference which seems unavoidable, that, upon this hypothesis, the proceedings of Congress are superfluous, and the foundation for all debate is removed, and the members need only offer themselves to be qualified; it might with equal truth be affirmed that Missouri would be a State, if she had made a Governor for life, or instituted an hereditary Senate, or claimed the public lands, or, in many other particulars, trenched upon the rights of the General Government, and held the terms of the proffered admission in contempt. But the assumption of her being a State is a fallacy —a begging of the question—and an illusion, arising from the repetition of a high-sounding word. In truth, the people of the United States, by their Congress, are parties to an executory contract. The people of Missouri are the other parties. The former have granted to the latter the faculty of becoming a State when, among other things, they shall have formed a constitution not repugnant to the Constitution of the United States. Now, by what law or usage, or principle of natural equity, does a party, who, by certain acts to be performed on his part, is to be entitled to the benefit of a subsequent act to be performed by another party, become the sole judge of his own fulfilment and perfect claim? Has not the party who is called upon to make the last concession a right to be satisfied? If there be a controversy and a tribunal, will not this last-mentioned party stand upon his defence? In the ordinary transactions of civil life there could be no doubt. Why, then, is it expected that Congress should surrender an advantage which every individual would retain? Congress, it may be said, cannot be arraigned before any tribunal, neither can it be impleaded upon any of the innumerable private pecuniary claims that are constantly made upon its justice. In these cases it invariably makes a law for itself. Doubtful claims are always rejected; and there could be no consistency in reserving scrupulously the power of deciding upon the demands for money and services, which are often paltry and insignificant, and shrinking from decisions which involve the civil or political rights of any portion of the people, however poor and humble their condition. It is, then, entirely fallacious to insist that Missouri, by taking advantage of her own wrong, has become a State, and precluded your right of inquiring into her condition. The fallacy is apparent when the inquiry is made, Is she a State of that description which is entitled to be admitted into the Union? This involves the further questions, Is her constitution republican? Is it conformable to the Constitution of the United States? Has she complied with the precedent conditions annexed to her grant? If in these points her constitution is defective, it is not incumbent on those who oppose her admission to waive their objections in consequence of the change of name or organization; neither is it essential to give her a name, or to define the heteroclite condition in which she has placed herself; though he saw no difficulty in saying she was yet a Territory, in her transit towards the condition of one of the United States, and none in providing by law (especially with a kindly concurrence on the part of that people) for an adaptation of the present form of her government to her territorial condition, until that should be changed.

The honorable gentleman from South Carolina had asserted, with great confidence, that several States had been admitted into the Union without any evidence to be found on record of an examination into the provisions of their constitution. "Several of those States were without constitutions;" and "why," exclaimed the gentleman triumphantly, "do you not issue a *quo warranto* against Rhode Island and other States?" To this, said Mr. O., the answer is most obvious. Rhode Island, Vermont, and North Carolina, had the option, at the time of the formation of the Federal Government, of becoming parties to it at pleasure. They were independent States, acting as such, and their constitutions or forms of government were subjects of notoriety to the other States with whom they had united under the Old Confederation. They did not adopt the Constitution of the United States at the same epoch with the other States, but there was a perfect understanding of their being at liberty to send in their adhesion; and, when they did so, nothing was wanting but laws extending to them the jurisdiction of the Union. In respect to every other State, it was manifest that their several constitutions had been submitted to the inspection of Congress, as would be demonstrated by a recurrence to its acts, and although the form of resolutions adopted of late years had not been originally observed. The State of Virginia, by an act of December, 1789, authorized Kentucky to become a State at some period subsequent to 1791, at a time to be fixed by the people. They accordingly formed a constitution, and determined that the era of its active supremacy should be in June, 1792. Meanwhile Congress convened, and determined on the same time for its admission into the Union, and, by necessary intendment, must have had before them the constitution as it had been adopted. In the act extending to Ohio the benefit of certain laws of the Union, there is an express recognition of her having framed a republican form of government. In the instance of Tennessee, there was a debate upon a clause in her constitution, which shows that the instrument was before Congress; and, since the time of her admission, a more precise formality has been observed in every instance. Nothing, therefore, he contended, was to be gained by the gentleman's reliance upon precedents, which were all against him. Having thus (continued Mr. O.) established it to be the right and duty of Congress to examine this instrument, he should

proceed to state and to support his objection arising upon the face of it, and it was, shortly, to the clause which made it the duty of the legislature of the new State to prevent the ingress and settlement of free people of color, under any pretext whatsoever, within its boundaries. This requisition being, at first blush, in palpable collision with the clause of the United States Constitution, which provides for a community of rights for the citizens of one State with those of any other State into which we may go, there is no refuge from the objection but in a bold denial of the fact, that free persons of color may be citizens of some one State. And, to do justice to the candor of gentlemen, it must be allowed they enter the lists with manly frankness, and, in so many words, deny to people of color this capacity of citizenship; and it follows as a corollary, that they deny also the right of any one State to confer that capacity upon them. They call upon us to show what constitutes a citizen, and especially to prove that persons of color were at all considered as coming under that denomination, in any compact made with each other by the people of the United States. It would require more time than could be fairly claimed by any individual to do justice to this subject under all its aspects, but he trusted a very few remarks would be sufficient for a satisfactory confutation of this novel theory. For his greater security, however, he would confine himself to the circumstances which would give to a man the right of citizenship in Massachusetts; for if a man of color could be a citizen there, he would carry his privilege elsewhere. In that State, he said, at the time of the Revolution, the people were considered as retaining all such portions of the common law of England as were applicable to their circumstances. By that law, the people of England were distinguished into citizens, denizens, and aliens. In Massachusetts, they were also either citizens or aliens; and he had no doubt he might safely contend that in all the States they were either citizens, aliens, or slaves. All persons born within the realm of England were citizens. All persons born in Massachusetts, of free parents, were citizens; and all persons in that State, not aliens or slaves, (and there could be none of the latter, though, perhaps, a fugitive slave might have been considered as an alien prior to the federal stipulations on that point,) were of consequence free citizens.

To this relationship of a free citizen to his State, protection and allegiance were the necessary incidents, and these imply, of necessity, a right to reside within the jurisdiction, and to be secure of life, liberty, and property, under the guardianship of the laws. Every citizen is held to serve the State in time of public danger and of war, and to contribute to the public burdens. He is entitled to redress when injured by a foreign power; to be reclaimed when unjustly captured or detained; and when he brings an action for land, alienage cannot be pleaded in bar to his demand. If he possesses these rights, and stands in this relation to the State, he is a citizen. In Massachusetts, many persons of color existed in this relation to the State, and he should believe, until the contrary was shown, that the same was true in every State in the nation. To strengthen this construction, he quoted the 4th article of the first Confederation, which ordains that the "free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States," and "shall have free ingress and regress," &c. He also quoted, from the Journals of the Old Congress, the resolve which formed the basis of the new constitution, and which recommends the apportionment of taxes upon the numbers of "white and other free citizens," and made comments upon them, which he considered as conclusive in favor of his construction. Pursuant to these principles, it was familiar to all that persons of this description had received grants of land for serving in your army, and had been reclaimed among your impressed seamen.

Now, against these facts and plain reasoning, he was aware of but one objection adduced by gentlemen who had preceded him. These men were not citizens, it is said, in every State, because in nearly all, if not in every State, they are, or have been, made liable to certain disabilities not common to the free white citizens. All the arguments of gentlemen upon this point, however diversified, and the immensely voluminous citations from the statute books of the different States, terminated in this one objection. It was, therefore, the soundness of this single foundation stone, and that alone, which he was called upon to examine. To this, then, his first answer was, that a class of citizens may, under certain circumstances, be subjected to particular disqualifications, without being thereby disfranchised.* In every country women and minors are subject to disqualifications—the former are such as are perpetual. In some, large classes are debarred from the power of electing, or being elected, to office. An unjust government may create many odious distinctions between its privileged orders and other citizens; and a just government, from motives of sound policy, may exclude a minor class of the community from certain civil and political rights, enjoyed by the rest, and yet leave the excluded or restricted class in the condition of citizens. The right of protection in life, liberty, and property; of residence, and of inheritable blood; of taking and transmitting, by descent,

* An act of Parliament, in the time of William III., provides, in substance, that "no person, born out of the kingdom of England, Scotland, or Ireland, or the dominions thereto belonging, although he be naturalized and made a denizen, (except such as are born of English parents,) shall be capable to be of the privy council, or a member of either House of Parliament, or to enjoy any office or place of trust, either civil or military, or to have any grant of lands, tenements, or hereditaments, from the Crown, to himself, or others in trust for him." Each State, prior to the Confederation, and subsequent to the Revolution, had the same powers, in regard to this subject, as the British Parliament.

lands, and chattels, may all be unimpaired, and, while they remain so, it is impossible to say that a man ceases to be a citizen. Certainly, Republics formed upon the model of the United States will abstain from all permanent distinctions among their citizens, not founded in unavoidable necessity, or the all-controlling force of public opinion; and perhaps the case in contemplation is the only one that can ever arise to authorize or induce the annexation of perpetual disqualifications for political or civil trusts to qualities which are in themselves innocent and personal. But it might be otherwise; and if a State, by its constitution, were empowered to restrain its citizens from wearing arms or killing game, or discharging certain political or civil functions, laws made pursuant to such authority would not operate an extinguishment of the rights of the citizen, hateful and oppressive as they would be in themselves. Again, cases may be supposed to exist in which one description of citizens may have assented, either expressly or by implication, to enjoy the rights of citizenship under some limitations. And, perhaps, the consent of the colored free people who remained in our country at the epoch of our Independence, or who, being born within the United States, have since become the voluntary inhabitants of any State, in which such limitations have prevailed from time immemorial, may fairly be presumed to have acquiesced in the legality of such limitations, and to be concluded by their own consent. Still they may be citizens. Modifications of the rights of citizenship were familiar to the laws of Rome prior to the time of Justinian; and, in fact, most of the distinctions of the privileged orders in modern governments, when fairly examined, may be referred to the same principles, and are neither more nor less than rights of citizenship differently graduated. Believing, therefore, in the correctness of this exposition, he considered all arguments drawn from the laws of the several States, respecting free people of color, to be entirely irrelevant to the subject, unless it could be made manifest that these laws had not merely been confined to a limitation of their political or civil privileges, but had entirely annulled all that portion of them which were essential to constitute the relation of citizen. In no State, he contended, had they yet been carried to this extreme; and, while any one of them could be found, in whose jurisdiction these persons were citizens, it would follow that they could not be disentitled to become citizens in any other State. The honorable gentleman from South Carolina had occupied an entire day, principally in reading and commenting upon the laws of the respective States, from North to South, discriminating between the white and colored people, in support of his broad denial of the capacity of citizenship to the latter. However amusing and enlivening those researches might have been in the hands of that gentleman, Mr. O. was convinced they would lose their charm in his hands, and should therefore abstain from following them in detail. He persuaded himself, however, that all the inferences from these laws might be reduced to a few points, and disposed of in a few general remarks. As to one, and that by far the greater portion of the statutes cited by the honorable gentleman, they applied exclusively to paupers, vagabonds, and fugitives. Either the purview of each statute, or other statutes found in the same code, and constituting a part of one system, proved these to be the only objects of those laws, and as, in many instances, they applied to white persons equally with others, the argument built upon them proved too much.

Another portion of these statutes affected merely qualifications for electing, or being elected, to office. These also might be laid aside. By the constitution or laws of several States, the political rights of the white citizen are abridged. It is so in Massachusetts; in Virginia, where freeholders only vote; in Mississippi, where a creed (or the want of it) disqualifies a man for office, and where clergymen are not eligible to the Legislature. This species of exclusion is, therefore, no test of the character of citizen. Indeed, some of the instances mentioned by the honorable gentleman might be regarded as exemptions from burdensome duties with more propriety than as restrictions of civic privileges; and persons who are dispensed from obligations to serve in the militia, and on juries, by law, do not generally complain of their condition.

When the laws and quotations, introduced with such profusion by the honorable gentleman, were arranged with reference to these two general heads, they would leave but a small remnant for any other. He did not recollect but one case which would not fall under them, and that was the statute of Massachusetts prohibiting intermarriages between white and colored people. With respect to that law, it was proper to remark, that marriage was a civil contract regulated by the policy of every State, according to its own views of public utility, and subject to greater or less ceremonials and restraints by the sovereign authority. It would not be pretended that laws creating temporary disabilities for matrimonial alliances, requiring age, consent of parents, or forms of marrying, would impair the quality of citizenship. And if the policy of a State might justify one denomination of restrictions upon the marriage contract which did not disfranchise those who became subject to them, why could not the same policy interpose other impediments to marriage without drawing after them disfranchisement as a necessary consequence? Why was a black person disqualified as a citizen by being inhibited from marrying a white person, more than a white person was so under a reverse of the rule? There was no necessary connection between an incapacity created by law, in one description of persons, to contract marriage with those of another description, and an incapacity of all the rights of a citizen. It was difficult

to illustrate this position by supposing examples, without seeming to disparage the unfortunate persons who were the objects of the exclusion. Hardly any other probable case could be imagined, that would call for the establishment of permanent legal distinctions between classes of citizens, in the exercise of the right to form matrimonial connections, and yet the policy of such a distinction in the state of our society, in this one instance, may be very unquestionable. The free people of color being everywhere a very small minority of individuals, under particular circumstances, are not entitled to complain of special restrictions and exclusions, which the vast majority, by high considerations connected with their ideas of sound policy, and invincible predilections for their own race, and the desire of transmitting to posterity its blood pure and unmixed, and for no other reason, may have seen fit to impose. If leprosy, or any other disease attended with a decidedly hereditary and incurable taint, were known to prevail in a State, laws might be passed to prevent marriage with the infected persons without touching any other rights. He meant, however, only to exemplify, and not to assimilate the cases—this, he repeated, being a peculiar case, and entire *sui generis*. He had thus far proceeded upon the supposition that all the statutes of the several States adduced upon the occasion, were in themselves constitutional. But, his second answer to this objection from the State laws was, that if any of them went so far as to disfranchise all free persons of color, such laws were void in themselves. He had heard of none that did go that length. Let us next, said he, advert for a moment to the suggestion of gentlemen, that if the clause of the constitution of Missouri should be found in discordance with that of the United States, a remedy would be found in the judicial department. It was, however, the first time he had ever heard it urged as a sound or safe principle that the rights, or even the claims of any portion of the people might be abandoned by the Legislature, because the courts could do them justice. It was, indeed, curious to observe the fluctuations of opinion relative to the judicial power occasioned by the different circumstances under which it was called forth. There was now upon the table a resolution declaring null and void the sedition act, which had received the sanction of two Congresses and many judicial decisions. In this case of Missouri, however, he insisted that the judiciary could give no adequate relief. The justice here sought was not remedial but preventive—not to restore to an individual violated rights, but to place numbers beforehand in a condition to exercise them. It was to retain (so far as the expression of the opinion of Congress could do it) to all free colored citizens the right of going to Missouri, if they thought fit, and settling therein, and not to redress the injury of one or more individuals who might be driven from its limits. Congress was to settle a principle, not to try a cause—and if the principle was abandoned, no cause would ever be tried. What individual would ever be found to journey through the immeasurable wilderness, "with lingering steps and slow," and set his foot in Missouri with a certainty of being driven back, for the privilege of having recourse to the courts of the United States, at an expense entirely beyond his compass, and beyond the value of the object of his journey? And if such a person could be found, what is the situation of others who might wish to settle there while the cause is pending? It had, indeed, been often urged, that the Legislature of Missouri might enact laws to the end provided for in their constitution, even if that instrument had been silent. Certainly they might do so, but it was equally certain they might forbear thus to legislate. But, by passing this resolution, and thus giving efficacy to their constitution, you communicate to the State and to its constitution the whole power of the Union for giving effect to this policy, and compel their Legislature to pass laws which they might otherwise omit, or which, if enacted, they might afterwards repeal. The honorable gentleman from Maine had favored the Senate with an exposition of his ideas of the term citizen, as found in the constitution, which Mr. O. said he was not able to comprehend, but which, if he did understand it, would enable a State to disfranchise all her citizens of all colors and complexions.

He would not pause to consider that doctrine, nor, indeed, to notice all the suggestions of that gentleman. There was, however, one topic unfolded by him to which he would for a moment advert. The gentleman contended that our opposition to the power of the States to exclude persons of color from settlement in their jurisdictions, would operate in favor of the slaveholding States sending away their freed blacks into other States, and that the Northern States would be thus overrun with their swarms. He could not believe, however, that the North would realize their obligation to the gentleman for wishing to prevent that quarter of the country from this inconvenience, by shutting up Missouri, which would leave them no other resort but the white peopled States. But further, if a colored man may become a free citizen, he cannot be sent away; and, if not a citizen, other States are not bound to receive him when he is sent away. Mr. O., however, did not admit that the mere manumission of a slave would make him a citizen. This was a very different question from any which he had considered, and it might be far from true that manumission would produce any such effect, and yet every principle advanced by him remains impregnable.

On the whole, he said, he had no ambition to be distinguished as a zealot in the cause of emancipation, or an advocate for a sudden change of condition in that unfortunate class of persons who were held in servitude. Much less was he inclined to adopt any language or measures tending to excite among them a spirit of discon-

tent, or to wound the feelings or rouse the irritation or resentment of their owners. The evil of slavery was too profoundly rooted for him to indicate or even imagine its cure.

No circumstances led him to regret discussions affecting the people of color in the United States more than their unavoidable tendency to elicit observations which might be misunderstood, and aggravate the troubles of slavery by adding discontent and vain hopes of freedom to the number. The actual condition of slaves in the old States was not a subject for the cognizance of Congress. And until those whom it immediately concerned could make some discovery whereby the abolition of slavery could be effected, he feared that the efforts of others, however well intended, would be worse than nugatory. So far was he from wishing it to be understood by the slaves that the people of the North would hold them justified in any violent measures to attempt the attainment of freedom, he was desirous of their realizing, what he believed to be true, that all considerate persons in every section of the Union would unite with one accord with their masters in putting down every species of revolt and insurrection, as pregnant with dreadful calamities to the whole nation. This had ever been his feeling and his language. But, with these convictions, he would strenuously and forever oppose the extension of slavery, and all measures which should subject a freeman, of whatever color, to the degradation of a slave. Believing, therefore, that every free citizen of color in the Union was joint tenant with himself in the public lands of Missouri, and of the jurisdiction possessed by the United States in that Territory until it should be elsewhere vested; and that, however humble and disadvantageous might be his sphere, he was entitled to his protection equally with those born to a happier destiny, he could not consent to an act which should divest him of his property and rights, and interdict him from even passing into a country of which he was a legitimate co-proprietor with himself.

When Mr. OTIS had concluded—

Mr. BARBOUR, of Virginia, presuming that some other gentleman might desire to deliver his sentiments on the question, moved an adjournment; and the Senate adjourned.

MONDAY, December 11.

Admission of Missouri.

The Senate then resumed the consideration of the resolution declaring the assent of Congress to the admission of the State of Missouri into the Union.

Mr. EATON, of Tennessee, said, before the Senate proceeded to a final vote upon the resolution, he would ask permission again to offer the amendment which had heretofore been submitted, and rejected. This, he believed, was strictly in order. The rejection of the proviso being before the Senate, in Committee of the Whole, did not prevent it from being considered, now that the resolution was reported to the Senate. Mr. E. then offered the following amendment to the resolution:

"*Provided*, That nothing herein contained shall be so construed as to give the assent of Congress to any provision in the constitution of Missouri, if any such there be, which contravenes that clause in the Constitution of the United States which declares that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

Mr. KING, of New York, said, as the amendment had already been considered, and rejected by the Senate, he regretted that it had been deemed expedient to offer it again. I object now, said Mr. K., as I have done before, to this amendment, because it declares that, in the admission of Missouri, the Senate have not considered, and do not pronounce any opinion, concerning the clause of the Missoure constitution which makes it the duty of the Lesislature thereof to pass laws to exclude free negroes and mulattoes from coming to, and settling in, Missouri. This declaration ought not to be made, because it would exhibit the Senate in this singular situation, (if his construction of the constitution of Missouri was correct,) that, in passing the act of admission, the Senate omits to consider and to allow its due weight to the only provision in that constitution upon which the obligation to admit, or not admit, Missouri depends. Mr. K. said he considered this proposition of much more importance than the mover of it appeared to do; and he was not willing to decide on it instanter at any rate.

Mr. EATON replied at some length. He said he certainly would be as unwilling as any one to press the consideration of what he had submitted, before gentlemen had fully made up their minds, and were prepared to vote. He doubted not, however, but that upon this subject all were prepared. It would be borne in mind by the Senate that this was not now an original proposition, but one that had before been considered and voted upon. When he had first the honor of submitting it, the gentleman from New York (Mr. KING) had urged his want of preparation, and on an application for postponement by himself, the postponement had been granted. Under this state of things, Mr. E. could not perceive any necessity for further procrastination, more especially when it seemed to be the wish of all to put an end, in some way, to this unpleasant question. Mr. E. said as to the constitutionality of the subject, however other gentlemen might be fully satisfied, yet with him, and with others he believed, the fact was otherwise. He was not willing either to affirm or to deny, that the constitution of Missouri was in strict conformity to the Constitution of the United States; he should have doubts were he to be required affirmatively to vote either way. But of this he did not pretend to doubt that, thus situated, thus doubting, it was his duty to lean to the side of the constitution, and by his vote to support that in-

strument which he and every member had sworn to maintain inviolate. The proviso ventured an opinion neither way; it was a *protestando* in the true signification of the term—the exclusion of a conclusion—a waiver on the part of Congress to give an opinion either one way or the other. This being the object which he wished to attain, he trusted the Senate would excuse his again pressing on their consideration that which had been before acted and voted upon. Encouraged by the information that some gentlemen who had before voted against the proviso had changed their opinions, and were now disposed to vote for it, was with him the inducement for again venturing to offer it. Time had been afforded to think fully on it, and further delay he thought ought not to be requested.

Mr. BARBOUR declined engaging in the debate, not, he said, that he was unwilling to meet the question, but with a hope and under the expectation that the question would be immediately taken.

The Senate then divided on the amendment, and there rose in its favor twenty-three members, and it was agreed to.

The question then being on ordering the resolution to a third reading, as amended—

Mr MORRILL, of New Hampshire, arose and thus addressed the Senate:

Mr. President: It cannot be said by the honorable Senate that I am in the practice of consuming much of their time in debate, or of frequently asking their attention to my remarks. When the honorable gentleman from Virginia, (Mr. BARBOUR,) immediately after this resolution was reported by your committee, intimated a wish that the question might be taken *sub silentio*, I was gratified with the hope that the unpleasant subject would pass off in that way. But as several gentlemen have occupied your attention, and have presented an unexpected view of the subject, I am inclined to offer my opinion also. In doing this, I am not influenced from an anxiety to make a speech before the Senate, nor from the pride of having the event announced in the public papers simply for the perusal of my constituents. I would assure the Senate I am not stimulated either by pleasure or ambition on this occasion; neither will my remarks arise from any peculiar hostility to the admission of Missouri into this Union, on such principles, and with such a constitution, as coincide with the provisions of the Constitution of the United States. I disclaim sinister motives and sectional partialities on this subject, and declare myself actuated by more noble and important views; and, solemnly impelled by a sense of duty I owe to my constituents and my country, I will endeavor to divest myself of preconceived opinions on the subject of slavery, and avoid any expression which may tend to revive those unpleasant sensations which so evidently prevailed in this body during the last session, and through the country, and examine the subject as involving a great constitutional question. The inquiry is not, in this case, whether slavery shall exist or be tolerated in Missouri. I am ready to admit, for the moment, that this has been so far settled by the vote of the last session as not to come into the present debate; but the passing of the resolution recognizes a principle materially affecting the rights of other States and the privileges of their citizens. This principle, and the consequences of admitting it, will be the subject of my remarks.

Sir, I must be permitted to state that this debate is not courted by Congress; it is from imperious necessity that any are compelled to protest against the adoption of the resolution; to save the constitution of the nation inviolate, and preserve harmony and union.

To present my view more fully on this subject, it may be useful to recur to the objects of the confederation. These I discover, in part, in the preamble of the constitution:

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

"Union, justice, domestic tranquillity, common defence, general welfare, and the blessings of liberty secured to posterity," were the grand and primary objects in establishing this constitution, under which, and for these purposes, the Government was organized. The guardianship and protection of this, the charter of our rights, is now committed to the people and their representatives in Congress. It is, then, our duty, with vigilance and a watchful eye, to mark the progress of events, and arrest, at the threshold, the unhallowed hand which may be raised to pervert its meaning, misuse its provisions, or tarnish its glory. After reflecting upon the solemn obligations which devolve upon the members of this body, to examine with solicitude the principles and provisions of the constitution, and faithfully and impartially apply them to the existing circumstances of the country, it would not seem strange if a peculiar anxiety were manifest on their application to a case pregnant with doubts and fearful apprehensions.

Sir, the first thing when I entered this chamber, to become a member of the Senate, was, to approach your chair, and take a solemn oath to support the constitution. This I consider more than a mere formality—an obligation by which I am bound, in my own conscience, to guard with vigilance the general and particular rights guaranteed by that instrument to this privileged nation. It is not necessary to refer you to the toils and privations of past periods to show their value. A moment's reflection upon the time that Sir Walter Raleigh visited the banks of the Roanoke; Captain Smith explored the Eastern shore from Penobscot to

Cape Cod, or our ancesters landed upon the rock of Plymouth, with some of the succeeding events, will furnish the mind with evidence of the estimate we ought to put upon the constitution, and the blessings it secures to our country. Forty years successful experience of the enjoyment of equal rights, under a free Government, demonstrate the advantages of republican institutions. But, sir, I waive all other considerations, and proceed to examine one point which attracts our attention and merits particular notice.

Is there any paragraph in the constitution of Missouri which contravenes any provision in the Constitution of the United States? This will be a subject of inquiry.

We find in the constitution of Missouri that, "it shall be the duty of the General Assembly, as soon as may be, to pass such laws as may be necessary to prevent negroes and mulattoes from coming to, and settling in this State, under any pretext whatsoever." No comment upon this can be necessary to render its meaning perfectly intelligible.

This will lead me to inquire into the duty and power of Congress, and then recur to this provision again.

"The United States, in Congress assembled, shall guarantee to every State in this Union a republican form of government, and protect each of them against invasion." This is necessary, to "insure domestic tranquillity, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity."

It is the duty of Congress to see "that full faith and credit are given in each State to the public acts, records, and judicial proceedings of every other State." This is essential "to perfect the Union, establish justice," cement the bonds of harmony, and secure the rights and privileges of the existing States.

By this, a mutual friendship would be encouraged, a unity of sentiment extended, and a confidence in the whole concentrated.

Congress have power to receive new States into the Confederacy. "New States may be admitted by the Congress into this Union." In doing this, they are bound to see that the rights and privileges of the individual States are not infringed. They are not only expected to secure inviolate the rights of States, but "the privileges and immunities" of their citizens. Among these the following is a very essential one. "The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States."

Sir, by this I understand that a citizen in any State in the Union may pass into any other State in the Union, and there enjoy "all the privileges and immunities of citizens" in the State to which he removes.

The same principle I find engrafted in the Articles of Confederation; by having recourse to that I find my exposition confirmed, and the same sentiment more fully and particularly expressed.

"The better to secure and perpetuate mutual friendship and intercourse among the *people* of the different States in this Union, the free *inhabitants* of each of these States shall be entitled to all the privileges and immunities of free *citizens* in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions, as the inhabitants thereof respectively."

The express language of this section so perfectly coincides with the opinion I have ventured to advance, that a comment could add nothing to its perspicuity. Could the term citizen need exposition, I would offer one, which, however, I could scarcely have imagined, had it not been for the novel and fallacious remarks of the honorable gentleman from Maine (Mr. HOLMES). In the foregoing extract we find the terms "inhabitants, citizens, and people," used as synonymous.

These are perfectly well understood in our community, and, I will only add, take from the inhabitants slaves and aliens, and the remainder are citizens.

Color does not come into the consideration, and it has no share in characterizing an inhabitant or a citizen. On this exposition I shall rest my argument.

I will now pass to inquire what are the provisions of the Constitution of the United States respecting the powers of the several States. These are all uniform and equal. They have certain powers, and are prohibited certain acts.

"The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof;" and, when vacancies occur, the State authority may fill them. But "no State shall enter into any treaty, alliance, or confederation; coin money, or make any thing but gold and silver coin a tender in payment of debts; or grant any title of nobility; or keep troops or ships of war in time of peace."

The reason is, by agreement, it is prohibited in the constitution, and in the same manner by agreement, it is provided, that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States;" and they "shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of the inhabitants thereof, subject to no other restriction than they respectively" endure.

As I before observed, I must now, for the purpose of comparison, recur to the provision of the constitution of Missouri, which makes it the duty of "the General Assembly to pass laws to prevent free negroes and mulattoes from coming to, and settling in, this State, under any pretext whatsoever."

Believing it fully demonstrated, that free persons of color are citizens, and conceiving it equally clear that some States in the Union have citizens of this description, and that the Constitution of the United States secures to all

the citizens in all the States the unmolested liberty of migrating to any State in the Union, and there to enjoy unrestrained, the "privileges and immunities" of the citizens of that State, I ask, is this restrictive clause in the constitution of Missouri compatible with the express provisions of the Constitution of the United States?

I distinctly answer the question. Sir, it is not. But, say gentlemen, "we must not examine this subject;" there may be difficulties, and there may not be. If there should be any, submit them to the Judiciary.

Sir, I do not accede to this doctrine. Congress have the power to examine, and I shall venture to exercise it. "New States may be admitted by the Congress into this Union." How? By guess, or by lot, without knowledge or reflection; or by examination and legislation? "The United States shall guarantee to every State in this Union a republican form of government?" How are the republican features of the constitution to be ascertained but by examination? It can be done neither by weight nor by measure.

I would seriously ask, for what purpose was the constitution of Missouri presented to Congress? We are led to presume, for examination and approbation, as this has been the general practice from the organization of the Government to the present time.

If this were not the case, why did not the convention of Missouri inform Congress by letter, or its delegate, they had made a constitution, and must now be admitted into the Union? Surely this would have been a very summary and novel course, but no more exceptionable than to offer a constitution without admitting the liberty of examining it.

The condition of Vermont was materially different from that of any other State. In consequence of difficulties subsisting between her and New York, respecting territorial limits, her constitution was formed, and her government organized, some years previous to her admission into the Union. But on her application by commissioners, she was admitted by an act of Congress, approved February 18, 1791. "The State of Vermont having petitioned the Congress to be admitted a member of the United States, Be it enacted, &c., That, on the 4th day of March, 1791, the said State, by the name and style of 'the State of Vermont,' shall be received and admitted into this Union, as a new and entire member of the United States of America."

The district of Kentucky, being originally a part of Virginia, applied to that Commonwealth for permission to form herself into a new State, and petitioned Congress for admission into the Union; whereupon an act passed for that purpose. "Whereas the Legislature of the Commonwealth of Virginia, by an act entitled, &c., have consented that the district of Kentucky, &c., should be formed into a new State; and whereas a convention of delegates, &c., have petitioned Congress to consent, &c., that the said district should be formed into a new State, and be received into the Union, by the name of 'the State of Kentucky'—Be it enacted, &c., That the Congress doth consent that the said district of Kentucky, &c., shall, upon the first day of June, 1792, be formed into a new State; and, upon the aforesaid first day of June, 1792, the said new State, by the name and style of the State of Kentucky, shall be received and admitted into this Union, as a new and entire member of the United States of America."

Thus we see the formality which has been observed in admitting new States into the Union. In no instance has this diminished, but in all instances it has increased. We will pass the admission of all intermediate States, and come to that of Louisiana, which is directly in point. The Territory of Orleans applied for admission into the Union, and Congress passed an act authorizing them to call a convention and form a constitution, enumerating certain conditions upon which she should be received; among which were the following: "That in case the convention shall declare its assent, in behalf of the people of the said territory, to the adoption of the Constitution of the United States, and shall form a constitution and State government for the people of the said territory, the said convention is hereby required to cause to be transmitted to Congress the instrument by which its assent to the Constitution of the United States is thus given and declared; and also a true and attested copy of such constitution as shall be formed by said convention; and, if the same shall not be disapproved by Congress at their next session, the said State shall be admitted into the Union upon the same footing with the original States."

Here we distinctly see that Congress required, previous to her admission, and as pre-requisites, that the convention should declare its assent to the adoption of the Constitution of the United States, and transmit the instrument of their assent to them; and, also, an attested copy of their constitution, "and, if the same should not be disapproved by Congress," they should be admitted.

With respect to Missouri the law says, Section 7: "And be it further enacted, That, in case a constitution and State government shall be formed for the people of the said Territory of Missouri, the said convention, or representatives, as soon as may be, shall cause a true and attested copy of such constitution or frame of State government, as shall be formed or provided, to be transmitted to Congress."

Here, then, we learn Congress prescribed conditions; required the constitution to be presented; reserved the privilege of examination, and the power of approving or disapproving. For this I contend; and these remarks are made to show the propriety and reasonableness of my claim. This privilege has been claimed, and this power has been exercised by an au-

thority no more competent than that of the present Congress.

But, say gentlemen, you must not examine into this subject, but turn it over to the judiciary.

Sir, I choose to examine for myself. This being my right, I conceive a different course needless and improper. Needless, because Congress have the power and ability. This is delegated to this department of the Government; in the first instance, by the constitution; and Congress have no right to surrender it. "New States may be admitted by the Congress," and no other body.

It is improper, because it would perplex a certain class of proprietors. Apply this to the poor yellow man who owns land in Missouri. They pass a law prohibiting free negroes and mulattoes from settling "in the State, under any pretext whatsoever." This is in force till nullified by the judiciary, which cannot be effected without an action at law. Is he able to endure this excessive burden? Who would undertake it to get into Missouri? The barrier is equal to an armed force, extending around the whole territory of the State. It would keep any citizen in the Union out, and this was the design of it. Surely, if they were to say, (which they could with equal propriety,) that no citizen with a *gray head* should settle in Missouri, I would never make the attempt. Hence, then, this provision in the constitution of Missouri is in direct hostility to the Constitution of the United States.

This, sir, is distinctly admitted in the report of the committee of the House, to whom the constitution was referred. They say, "the committee are not unaware that a part of the 26th section of the 3d article of the constitution of Missouri, by which the legislature of that State has been directed to pass laws 'to prevent free negroes and mulattoes from coming to, and settling in, the State,' has been construed to apply to such of that class as are citizens of the United States; and that their exclusion has been deemed repugnant to the Federal Constitution." Here the fact for which we contend is conceded; and, also, that there are some "of that class who are citizens of the United States." If this is not the case, why your provisos? Why submit nothing to the judiciary? Why must there be a *protestando* introduced?

Mr. President, I proceed to show the consequences of this provision.

Some States have free citizens of color. This is the case in Vermont, New Hampshire, and Massachusetts. In Vermont, there is a mulatto man by the name of Haines, who is a regular ordained minister in Rutland. He is pastor of a church and society of white people; has frequently been moderator of the Theological Association to which he belongs, and also of ecclesiastical councils convened for the ordination of ministers. In fact, his abilities, education, moral character, and standing in society, are such that he has received an honorary degree of Master of Arts from the University. But this man and his family, although of high standing in community, and possessing all the faculties of citizens, are proscribed, and, by the constitution of Missouri, are prohibited settling in the State.

In New Hampshire, there was a yellow man by the name of Cheswell, who, with his family, were respectable in point of abilities, property, and character. He held some of the first offices in the town in which he resided, was appointed justice of the peace for that county, and was perfectly competent to perform with ability all the duties of his various offices in the most prompt, accurate, and acceptable manner. But, this family are forbidden to enter and live in Missouri.

In Boston, is a mulatto man by the name of Thomas Paul, a regularly ordained Baptist minister, pastor of a church of people of color, at whose meeting many white people attend, and who preaches by exchange or otherwise with all the neighboring ministers of his denomination.

Sir, you not only exclude these citizens from their constitutional "privileges and immunities," but also your soldiers of color, to whom you have given patents for land. You had a company of this description. They have fought your battles; they have defended your country; they have preserved your privileges, but have lost their own. What did you say to them on their enlistment? We will give you a monthly compensation, and at the close of the war, 160 acres of good land, on which you may settle, and, by cultivating the soil, spend your declining years in peace, and in the enjoyment of those immunities for which you have fought and bled. Now, sir, you restrict them, and will not suffer them to enjoy the fruit of their labor. Where is the public faith in this case? Did they suppose, with a patent in their hand, declaring their title to land in Missouri, with the seal of the nation and the President's signature affixed thereto, it would be said to them, by any authority, you shall not possess the premises? This could never have been anticipated.

But, says the honorable gentleman from Maine, (Mr. HOLMES,) "they are perfectly secured by a saving clause in the constitution of Missouri," which must be taken in connection with that part which prohibits their settling in the State. It must, therefore, be read: "it shall be the duty of the General Assembly to pass laws, to prevent free negroes and mulattoes from coming to and settling in this State, under any pretext whatsoever: *Provided, however*, The General Assembly shall never interfere with the primary disposal of the soil by the United States, nor with any regulation Congress may find necessary for securing the title in such soil to the bona fide purchasers." My humble opinion is, this does not reach the case. Were it to protect patentees of the Govern-

ment, this would be only a part of that class of citizens who are liable to suffer. But the fact is, it will not do that. The law says, a mulatto man shall not settle in Missouri "under any pretext whatsoever." This provision says, "the Assembly shall never interfere with the primary disposal of the soil." What has this to do with his settling in that State? It will afford him no relief. But "the Assembly shall not interfere with any regulation Congress may find it necessary for securing the title in such soil to the bona fide purchasers." What security will this afford to the yellow man desirous of settling in Missouri? They will not destroy his title, but they will not permit him to come into the State. The gentleman's argument goes upon the ground, that a title and possession are the same. This I do not admit. It is a principle laid down in the books, that one person may hold the title and another the possession; and this is proved from daily experience. If this were not the case, what gives origin to a writ of ejectment? It grows out of the very circumstance that one person may hold the title and another the possession; and the title may be good, but possession cannot be obtained without an action at law. The quality of the title in this case may be inferred from the fact, that, although the yellow man may not enter and possess the premises, he can transfer his title to a white citizen, who may, without molestation, enter and enjoy the premises.

Then, on a critical examination of the constitution, we find no relief, but are compelled to yield to the fact, that free citizens of some States are precluded the privilege of settling in Missouri; by which their rights are abridged, contrary to the provisions of the Constitution of the United States.

Mr. President, can we suffer one, even the meanest of our citizens, to be unconstitutionally deprived of his privileges? No. We are the guardians of his rights, and, in the performance of our duty, we cannot permit them to be infringed.

How was it with Mr. Meade, who was unjustly retained in prison in Spain? He was deprived of his liberties and immunities. Congress took notice of the circumstance, and that very justly. Executive interference was exercised, and his liberty was regained. This manifested a suitable regard to the rights of our citizens. When our citizens are taken and retained by the Algerines, you retake or negotiate and redeem them. In this case you make no distinction between the white man and negro—they are both redeemed with your money. When Commodore O'Brien was consul at Algiers, there were six negroes redeemed at the same price as white men; and one slave, who was restored to his owner, but not made free. When your soldiers are captured, black or white, you redeem them. It is proper that you should. These are only the infringement of other rights, than those abridged by the constitution of Missouri. The question is not what privileges may be violated, nor how many, nor to what degree, nor whether the citizen be black or white; but can we tamely suffer one State to deprive any citizen of any of his constitutional rights and privileges?

If Missouri can do this, why not keep a standing army, enter into a treaty, coin money, and grant titles of nobility? She is a frontier State—the Indians are near; it may be very convenient to keep an army or make a treaty. The reason is, the Constitution of the United States distinctly says she shall not. And in the other case it expressly declares, "the citizens of each State shall be entitled to all the privileges and immunities of the citizens of Missouri; and they shall have as free ingress and regress as her own citizens now have." This is the only consistent construction that can be given to the Constitution of the United States, and the only safe principle which can be adopted to secure the provisions of the constitution from infraction, and the rights and privileges of the citizens of the several States from the most destructive violation. Admit the contrary principle, and each State becomes a monarchy, or is transformed to despotism. Our dearest privileges are wrested from our hands; and those very rights by which our national union, domestic tranquillity, and general welfare are secured, are forever annihilated. If you can proscribe one class of citizens, you may another. Color no more comes into consideration to decide who is a citizen than size or profession. You may as well say a tall citizen shall not settle in Missouri, as a yellow citizen shall not. If one State can do this, all may. The consequence will be, that size, profession, age, shape, color, or any disgusting quality in a citizen, would be a sufficient reason why he should be precluded settling in any State, which, from its pride, caprice, or vanity, are disposed to keep him out. Sir, under such a state of things, where are our liberties and privileges? They are fled. They are absorbed in the caprice of a State. Where is your free ingress and regress from State to State? Your national existence is lost; the Union is destroyed; the objects of confederation annihilated, and your political fabric demolished.

Sir, I have endeavored to point out the objects of the American confederacy; the duty and power of Congress; the duty, power, and privileges of States; who are citizens of some States, and the rights of our citizens, and the provisions of the Constitution of the United States, by which those rights are secured, and the provisions of the constitution of Missouri; and have come to this irresistible conclusion, that the Constitution of the United States secures to the citizens of all the States in the Union, "the privileges and immunities of the citizens" of each State in the Union; but Missouri, in her constitution, precludes certain citizens, in certain States, the "privileges and immunities" of her own citizens; therefore, the

constitution of Missouri contravenes the express provisions of the Constitution of the United States. For these reasons I vote against the resolution.

Sir, a few more words, and I close my argument. I regret that I feel compelled to offer an opinion of the complexion of this business. I lament that it has the appearance of defiance. I have endeavored to put the most favorable construction possible upon it, and it amounts to a challenge. Oppose us if you dare! I am driven to this result from knowledge and reflection. On examining this constitution, I am sure it was not penned by uninformed men. Aside from a few exceptionable parts, it is one of the best constitutions I have ever seen. The Convention were not unapprised of the feelings excited last session. The particular exceptionable clause was not in the original draught. They were informed by their honorable Delegate, and one of the gentlemen who appears here as a Senator, that this paragraph would be objectionable. But it is here, not inadvertently nor from necessity. If they had intended to pass a law similar to that directed by this paragraph in the constitution, they could have done it without this provision.

Mr. President: Before I take my seat, I must be permitted to make a few strictures upon some remarks which fell from the honorable gentleman from South Carolina, (Mr. SMITH.) He observed that "negroes and mulattoes are not citizens of the United States." It is not my intention to consume your time to demonstrate the contrary of this; because it would not, in the least degree, vary the subject. Our inquiry is, and it is the point which settles the question, are they citizens of any particular State? This point I have proved, and on the other hand it is admitted; and if they are citizens of any one State in the Union, this is enough for our purpose. I would ask my friend, what *is* the man in his country who is neither a *slave* nor an *alien?* In mine he is a citizen. The gentleman argued largely to show "that slavery was tolerated in Republics." He need not have gone to Rome, Greece, nor Sparta, to have proved this; it is evident from our daily observation, and, of course, admitted. But what is this to the point in debate? What has this to do with the question whether Missouri has a constitutional right to prohibit free citizens from settling in her territory? Does it follow, because slavery is tolerated in Republics, therefore Missouri may proscribe free citizens? This reasoning is neither conclusive nor convincing.

The gentleman says: "Missouri is now a State to all intents and purposes." This is not admitted. What has made her a State? What is the language of your resolution? Not that she now *is*, but that she *shall be*, a State, when this resolution is passed by both Houses, and approved by the President.

"Be it resolved, &c., that the State of Missouri *shall be*, and is hereby declared to be, one of the United States of America." But, were it true that she is a State, there is nothing gained by it. Vermont was a State a long time before she was received into the Union. The question is, shall Missouri be admitted with a constitution which conflicts with the Constitution of the United States?

My friend argues, "we are bound by the Treaty of Cession to receive her." Admit this. But in that treaty there are terms and conditions. "The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution." Hence, in her admission, the principles of the Federal Constitution must be observed and maintained inviolate. This was the ground on which Louisiana was received, and Missouri being a part of the same purchase, she must be admitted on the same principles, and in the same way, and no other.

But the gentleman says, "States were admitted without presenting their constitution." This may have been the case. Circumstances have been different, especially with Vermont; and the manner of this transaction less formal and correct than at the present time. Because another State has been received, which did not present her constitution, does it follow that Congress must not examine the constitution of Missouri? It matters not in this case what has been done; the constitution is here presented to Congress. "But you have no power to control a constitution." For what purpose, then, is it sent here? To lie on our table? Congress had power to control the constitution of Louisiana. Have they less power than they then had? In this case they said to the Convention, send a true and attested copy of your constitution here, and if the same shall not be disapproved by Congress at their next session, the said State shall be admitted into the Union. This is all the power for which we contend; and this is a privilege which Congress has had, and still has, a right to exercise.

"Louisiana, Ohio, and other States, declare how persons coming into them shall obtain a residence." This we readily admit; and against such regulation have no objection. But does it follow, because certain States prescribe conditions on which emigrants shall gain a residence, therefore Missouri has a constitutional right to prohibit the citizens of other States from settling in her territory? Really I do not see the force of the argument.

"States have made a distinction between white people and blacks." This is very true; so they have between white people. South Carolina has distinguished that gentleman in giving him a seat here, and that very justly; and he has nobly distinguished himself. And what is this to the point? "But in the Eastern States, they whip black people—not only once and twice, but ten times, and every ten days." This may be true; and equally true, that they whip white people when they violate their

laws; and continue to whip, black or white, as long as they continue to violate wholesome laws; and I suspect will persevere in the practice until they reform or emigrate to South Carolina, where they may receive better treatment. Does this prove any thing with respect to the constitutional power of Missouri?

But, says the gentleman, "New Hampshire excludes negroes from training." This is very true; and so they excuse many white people. This only places them among the exempts; generally, the first class in society. And from this very circumstance, they have the privilege of walking about with the other gentlemen and seeing the soldiers train. It neither deprives them or any other person of citizenship or any other privilege.

Blacks, then, are not degraded in New Hampshire. Custom has made a distinction between them and other men; but the constitution and laws make none.

Mr. President, a few words in reply to what has fallen from the gentleman from Maine, (Mr. HOLMES,) and I shall have done. He observed, purchasers under the United States are not restricted. To maintain this position, he took occasion to explain the Constitution of the United States, and that of Missouri, the incorrectness of which will more fully appear in his after remarks, in the application of the principle. As my former argument had a particular allusion to these opinions, any further refutation is unnecessary.

This gentleman says, "the doctrine that free blacks have a right to enter free States, is dangerous." I am a little surprised to hear a gentleman of so much acuteness in disquisition upon constitutional law, calculating upon consequences which have no immediate connection with the subject. He might as well argue, that a commercial enterprise to the Euxine sea, would be detrimental to Massachusetts, and therefore Missouri must keep all free citizens of color out of her territory, as to argue that if free blacks may enter any free State, Maine will be infested with them; and therefore, Missouri must prohibit their settling in that State.

"A State may exclude any person." Here we are at issue. I by no means admit the doctrine. Any State may regulate the terms upon which emigrants shall become residents; but no State has any right to exclude them. To utterly prohibit, and regulate by law the terms of inhabitancy, are materially and essentially different; and one within the municipal power of every State, the other expressly prohibited by the Constitution of the United States.

But, says the gentleman, "the Constitution *means*, when they get *in*, they shall have privileges, but they may be kept *out*." This is a little curious, for a gentleman learned in the law. Then, if a person were to ascend in an air balloon, at a small distance from the line of Missouri, and safely land within her territory, the constitution secures to him "privileges and immunities;" but it makes no provision for his crossing the line by *land*. Under this exposition, where is the "free ingress and regress" of the citizens of each State guaranteed by the constitution? Sir, your constitution is like a nose of wax. Your liberties and privileges are a bubble. Your union, domestic tranquillity, and prospect of common defence, are prostrated to the ground. But, says the gentleman, this doctrine is certainly correct, and to test his principle, he adds, "send a mulatto man here, should *we* not feel our rights invaded?" This has no connection with the question. It is possible some gentleman might feel his rights invaded. But I would inquire, in my turn, *what* rights are invaded? And I would seriously ask the Senate, if any State in the Union were duly to elect a yellow man constitutionally qualified, commission and send him here with his credentials, you can exclude him a seat? You have a right to decide on the qualifications of your members; but color is no more a qualification than height, profession, or nation. The gentleman observes, "a mulatto, though a citizen in one State, going into Missouri, has no other rights than a mulatto has in Missouri." Here we are at issue again. This doctrine I flatly deny. The salubrious air and fertile soil of Missouri can never metamorphose a free citizen into a slave; neither can the constitution and law of Missouri do it. Were the proposition true, then a black or yellow free citizen of Maine, going into Virginia, would be a slave. As I before intimated, it is *citizen* only, and *not* color, that comes into consideration, in deciding this question.

But the gentleman, in a very *affecting* tone, enlists all our sympathies, in view of the consequences of rejecting this unconstitutional instrument from Missouri. For these, sir, I conceive Congress is not accountable; and, therefore, such imaginary phantoms are not proper subjects of discussion, nor suitable beacons to direct our course. Missouri was permitted, under a law of Congress, to form a constitution, "republican, and not repugnant to the Constitution of the United States," and "transmit an attested copy of such constitution to Congress." It was expected she would perform this in good faith. If she has utterly failed—formed and presented a constitution repugnant to the Constitution of the United States, and unpleasant consequences result, the fault is her own. There can be no provision in the constitution of Missouri inadvertently introduced; of course, all the consequences rest upon Missouri. These, however, are not to come into our consideration; the Constitution of the United States alone is to direct our course.

But the gentleman discovers another difficulty, in case this constitution is rejected: he is unable to determine in what condition Missouri will be, whether Territory, or State, or neither. With respect to this, sir, I have only to observe, if that gentleman cannot divine, I

presume it is within the scope of Congress, and merely that circumstance would not convince me the object is unattainable.

I would also add, that every difficulty of this kind which could possibly have arisen might have been avoided by precautions similar to those observed by Maine. She, in the first place, petitioned the Legislature of Massachusetts for leave to form a constitution and independent State. This was granted. She then formed her constitution, and fixed her election for State officers after the probable time of the adjournment of the then next session of Congress. She presented her constitution for the approbation of Congress and admission into the Union. This was done. After she became, by an act of Congress, a State in the Union, she elected her officers, and organized her government. If Missouri had pursued the same moderate and consistent course, there could have been no possible difficulty with respect to her character or condition.

Mr. President, these being my views of the subject, I close my remarks, after presenting my thanks to the honorable Senate for the great candor and attention with which they have indulged me while I have occupied their time.

Mr. MACON followed the above speech with a motion to recommit the resolution to the select committee which reported it, with instructions to strike out the proviso adopted to-day on the motion of Mr. EATON. Mr. M. had no doubt whatever of the propriety of the naked resolution as reported, and was opposed to the proviso; he therefore proposed this mode of getting rid of it.

The question on recommitting the resolution was decided in the negative, by yeas and nays, as follows:

YEAS.—Messrs. Burrill, Dickerson, King of New York, Lanman, Lowrie, Macon, Mills, Morrill, Noble, Palmer, Roberts, Ruggles, Sanford, Smith, Tichenor, Williams of Tennessee, and Wilson—17.

NAYS.—Messrs. Barbour, Brown, Chandler, Dana, Eaton, Edwards, Elliott, Gaillard, Holmes of Maine, Holmes of Mississippi, Horsey, Hunter, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Lloyd, Parrott, Pinkney, Pleasants, Talbot, Taylor, Thomas, Trimble, Van Dyke, Walker of Alabama, Walker of Georgia, and Williams of Mississippi—27.

The question was then taken on ordering the resolution, as amended, to be engrossed and read a third time, and was decided in the affirmative, by yeas and nays, as follows:

YEAS.—Messrs. Barbour, Brown, Chandler, Eaton, Edwards, Elliott, Gaillard, Holmes of Maine, Holmes of Mississippi, Horsey, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Lloyd, Parrott, Pinkney, Pleasants, Smith, Talbot, Taylor, Thomas, Van Dyke, Walker of Alabama, Walker of Georgia, Williams of Mississippi, and Williams of Tennessee —26.

NAYS.—Messrs. Burrill, Dana, Dickerson, Hunter, King of New York, Lanman, Lowrie, Macon, Mills, Morrill, Noble, Palmer, Roberts, Ruggles, Sanford, Tichenor, Trimble, and Wilson—18.

TUESDAY, December 12.

Electoral Votes.

Mr. WILSON, of New Jersey, submitted the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire whether any, and if any, what provisions are necessary or proper to be made by law to meet contingencies which may arise from unlawful, disputed, or doubtful votes under that part of the 12th article of amendments to the Constitution of the United States, which relates to counting the votes of the Electors for the President and Vice President of the United States.

Mr. WILSON said, it would be found, on referring to the article in the constitution alluded to in this resolution, that the provision in relation to counting the votes for President and Vice President is very general. The words are, "the President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted." It is not said who shall count the votes, nor who shall decide what votes shall be counted. In consequence of this defect, as the Senate would well remember, some difficulty occurred four years ago, in relation to the votes from Indiana. Objections were made to receiving these votes; the counting was interrupted; the two Houses separated; and although on that occasion they again came together, and proceeded on, and completed the business before them, so happy a result might not always be produced. Cases might occur where stronger doubts might exist, or more excitement prevail; debates be protracted, and decisions deferred, and serious inconveniences or evils follow. Was it not probable such a case would occur during the present session? Would it not at least be prudent to guard against danger from such a contingency? Congress has unquestionably the power, under the last clause of the 8th section of the first article of the constitution, and he thought they ought to exercise it, by vesting the authority to decide upon doubtful, disputed, or unlawful votes, either in the President of the Senate, the Senate itself, the House of Representatives, or in the two Houses, conjointly or separately. At least, Mr. W. deemed the subject of sufficient importance to justify the inquiry proposed in the resolution which he had submitted.

Mr. WILSON submitted also the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire whether any, and if any, what amendments are necessary and proper to be made to the act, entitled "An act relative to the election of a President and Vice President of the United States, and declaring the officer who shall act as President, in case of vacancies in the offices both of the President and Vice President," passed March 1, 1792.

Both resolutions lie on the table one day of course.

Admission of Missouri.

The resolution declaring the consent of Congress to the admission of the State of Missouri into the Union was read a third time, and the question stated "Shall the resolution pass?"

Mr. TRIMBLE observed, in reference to some remarks between himself and Mr. SMITH yesterday, that he had not voted for the admission of Alabama, because he could not reconcile the provision in relation to banks, (with all the checks and guards which had been introduced into the constitution of Alabama on that subject,) with the Federal Constitution. In relation to that provision he had entertained doubts which were at the time expressed to some of his friends. Mr. T. said it was true that he had not made a formal opposition to the admission of Alabama, because he had just taken his seat in the Senate, and was unaccustomed to legislative proceedings; nor did he then suppose that it was so important that he should record his name in opposition to the measures which he thought violated the spirit and true meaning of the Federal Constitution. But, had the gentleman, said Mr. T., no other defence to set up for that article of the constitution of Missouri? If, said he, the Federal Constitution has been violated, in one instance, is that any reason that it should be violated in another? Can precedent sanctify a violation of the constitution which we are sworn to support?

The question being then put, the resolution was passed and sent to the House of Representatives for concurrence.

MONDAY, December 18.

Death of the Representative, Nathaniel Hazard.

A message from the House of Representatives announced to the Senate the death of NATHANIEL HAZARD, late a member of the House of Representatives from the State of Rhode Island and Providence Plantations, and that his funeral will take place this day at two o'clock.

On motion of Mr. HUNTER, it was

Resolved, unanimously, That the Senate will attend the funeral of Nathaniel Hazard, late a member of the House of Representatives from the State of Rhode Island and Providence Plantations, this day at two o'clock; and as a testimony of respect for the memory of the deceased, they will go into mourning, and wear a black crape round the left arm for thirty days.

THURSDAY, December 21.

MONTFORT STOKES, from the State of North Carolina, attended.

TUESDAY, December 26.

Death of Senator Burrill.

The Journal of Saturday having been read—

Mr. HUNTER, of Rhode Island, rose, and, with much emotion, said, he had to perform a melancholy, and, to him, truly distressing duty. His friend and worthy colleague, the Honorable JAMES BURRILL, Jr., had departed this life about ten o'clock last night, and it devolved upon him to announce the painful event to the Senate.

Mr. DANA, of Connecticut, said, the serious loss which had just been announced must be extremely felt by the Senate, and he could not doubt its disposition to manifest every regard for the memory of the deceased, and every respect towards his remains. He therefore offered the following resolution:

Resolved, That a committee be appointed to take order for superintending the funeral of the Honorable James Burrill, Jr., and that the Senate will attend the same; and that notice of the event be given to the House of Representatives.

The resolution was unanimously adopted, and Messrs. MACON, DANA, CHANDLER, HOLMES, of Maine, and PARROTT, were appointed the committee accordingly.

On the further motion of Mr. DANA, it was—

Resolved, unanimously, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the Honorable James Burrill, Jr., deceased, late a member thereof, will go into mourning for him one month, by the usual mode of wearing crape round the left arm.

On motion of Mr. DANA, it was—

Resolved, unanimously, That, as an additional mark of respect for the memory of the Hon. James Burrill, Jr., the Senate do now adjourn.

And the Senate adjourned accordingly, to one o'clock to-morrow.

MONDAY, January 8, 1821.

Death of the Representative, John Linn, Esq.

The PRESIDENT communicated a letter from the Clerk of the House of Representatives, transmitting a resolution of that House, announcing to the Senate the death of JOHN LINN, late a member of the House of Representatives from the State of New Jersey, and the letter and resolution were read.

On motion by Mr. DICKERSON,

Ordered, That the said letter and resolution be entered at large on the journal of the Senate, which is done accordingly in the following words:

CLERK'S OFFICE, HOUSE OF REP'S, U. S.,
January 6, 1821.

SIR: The House of Representatives of the United States having received intelligence of the death of John Linn, late a member of that House from the State of New Jersey, and having taken order for superintending and attending his funeral, have also directed me to communicate the same to the Senate. The recess in that body to-day rendering it impossible to make such communication in the ordinary way, I have, therefore, the honor to transmit you, enclosed, the resolution adopted by the House on that subject.

I have the honor to be, &c.,
THOMAS DOUGHERTY,
Clerk of the House of Rep's.

Hon JOHN GAILLARD,
President of the Senate.

IN THE HOUSE OF REP'S OF THE U. S.
January 6, 1821.

Resolved, That a message be sent to the Senate to notify them of the death of John Linn, late a member of this House from the State of New Jersey, and that his funeral will take place this day at three o'clock from the Hall of the House of Representatives.

Attest, TH. DOUGHERTY, *C. H. R.*

On motion by Mr. DICKERSON,

Resolved, unanimously, That the Senate, as a testimony of respect for the memory of the Honorable John Linn, late a member of the House of Representatives from the State of New Jersey, will go into mourning and wear a black crape round the left arm for thirty days.

WEDNESDAY, January 10.

National Vaccine Institution.

The Senate proceeded to the consideration of the bill from the House of Representatives to incorporate the National Vaccine Institution.

On this bill there arose a short debate.

Messrs. ROBERTS and TALBOT opposed the bill, on the ground that it was not necessary to the object avowed, which could be easily accomplished without it; that, if necessary, an act of incorporation could be obtained from the State of Maryland sufficient for all useful purposes; that the bill proposed to incorporate an institution without limiting it to the District; that there were within the District so many corporations that the number ought not to be increased, unless under an urgent necessity, &c.

Messrs. HORSEY and LLOYD supported the bill, on the ground of its importance to the proper accomplishment of an object of great interest to humanity, which could not be in any other way so well accomplished. The same explanation of the bill was substantially given as was given of its merits when pending in the House of Representatives.

Mr. ROBERTS had moved a general postponement of the bill; but, with a view to allow gentlemen favorable to the bill to amend it, if they desired, he withdrew his motion; and, on motion of Mr. LLOYD, the bill was postponed to Monday next.

MONDAY, January 15.

Matthew Lyon.

The Senate then proceeded to consider the report of the select committee on the petition of Matthew Lyon, who prays to be indemnified for the damages which were inflicted on him under the former Sedition law. The report concludes with the following resolutions:

Resolved, That so much of the act, entitled "An act for the punishment of certain crimes against the United States," approved the 14th July, 1798, as pretends to prescribe and punish libels, is unconstitutional.

Resolved, That the fines collected under that act ought to be restored to those from whom they were exacted; and that these resolutions be recommitted to the committee who brought them in, with instructions to report a bill to that effect.

The resolutions having been read, Mr. BARBOUR rose in support of them, and spoke about two hours; when (not having finished his argument) he gave way for a motion to postpone the subject until to-morrow; which prevailed.

TUESDAY, January 16.

Matthew Lyon.

The Senate then resumed the consideration of the report of the select committee on the case of Matthew Lyon.

Mr. BARBOUR concluded the argument which he left unfinished yesterday, in support of the resolutions.

Mr. WALKER, of Georgia, next rose and spoke some time against the resolutions.

Mr. JOHNSON, of Kentucky, replied to Mr. W., and advocated the resolutions.

THURSDAY, January 18.

Matthew Lyon.

The Senate then again proceeded to the consideration of the report of the select committee in the case of Matthew Lyon.

Mr. OTIS rose, and, in a speech of considerable length, delivered his views in opposition to the report.

Mr. MACON followed, in a speech which occupied some time in the delivery, in favor of the report.

Mr. DANA then spoke against it, and the Senate adjourned.

FRIDAY, January 19.

Matthew Lyon.

The Senate resumed the consideration of the report of the select committee on the petition of Matthew Lyon, together with the motion to postpone the same indefinitely.

Mr. DICKERSON, of New Jersey, rose, and expressed himself as follows:

I regret that the merits or demerits of Matthew Lyon should be called up in deciding a principle, involving consequences much more important than the character or sufferings of any individual. I am aware that Matthew Lyon is unpopular in Congress, but that want of popularity should have no unfavorable effect in fixing a principle in which the citizens of the United States are deeply interested. We are not to try the man; we are to decide his cause, which is one of general interest. Why, we are triumphantly asked by the honorable gentleman from Georgia (Mr. WALKER) has this question been suffered to sleep for twenty years? Why are its slumbers now disturbed? Frequent attempts have been made to disturb its slumbers, but in vain; an attempt is now made, but that gentleman seems resolved to perpetuate those slumbers, by this motion for indefi-

nite postponement. Perhaps there have been in Congress too many who believe, with that gentleman, that no injury has been done to Matthew Lyon; who think that the eulogiums which have been bestowed upon him, have been a sufficient compensation for his sufferings; for eulogiums have been poured out upon him in great profusion, from the time he became an object of persecution. If he could be paid for his sufferings in this way, he might be overpaid; and it may be thought that, upon a fair reckoning, there may be found a balance against Mr. Lyon, and that it would be but fair that he should suffer a little more; but, trust me, that honorable gentleman, who seems to envy the happy estate of Mr. Lyon, would not suffer what he did for all the eulogiums which fame herself, with her hundred trumpets, could pour out upon him for the rest of his life.

But why, says the honorable gentleman, is this time, when our Treasury is empty, selected for voting money to Mr. Lyon—why was not this done in the time of Mr. Jefferson's Administration, when we had an overflowing Treasury—and we were at a loss for the means of disposing of the public money? In the first place, there was really not so much difficulty in disposing of the public money as seems to be imagined—emptying the treasury was a very simple business then, as we have found it to be in later days. In the next place, a full treasury was no good reason for paying Mr. Lyon a thousand dollars then, any more than a bare treasury is, for withholding it now. The merits of the case do not depend on the state of the treasury; if they did, those merits would sometimes be very great, at other times very small, but generally rather small. I trust, however, in voting on this resolution, we shall not stop to inquire how much money there may be in the treasury; if we do, sure I am, the gentleman's motion, the indefinite postponement, must prevail.

If the friends of the liberty of the press have heretofore neglected to urge this subject upon the consideration of Congress, let the reproach rest with them; their apathy affords no apology to us for refusing to act. If we have been negligent, let us now redeem our character. Those who consider the sedition act constitutional, and called for by the circumstances of the times, must consider this inquiry as altogether unnecessary and improper—and those who believe that the act was unconstitutional and oppressive, I fear, feel satisfied that much good has resulted to themselves from the sufferings of those who were fined and imprisoned under that act—and that the party with whom it originated, not only failed to accomplish the object they had in view, but in fact by this very measure lost the power which it was intended to perpetuate. Under such comfortable, but selfish reflections, I fear we are disposed to forget the victims of the law.

We cannot but feel some reluctance at entering upon the investigation of a question, which, by many, has long been considered at rest; more especially when that question is calculated to call up feelings that once painfully agitated the public mind. Under such circumstances, a love of ease will prevail, where a strong sense of duty does not impel to action.

The present case, however, comes before us in a way that demands, and must receive a serious consideration. One of our citizens has brought his claim before us in the usual form of petition. The constitution, laws, and usages, by which this body is governed, make it imperative upon us to decide for or against the petitioner; and whatever gentlemen may think, as to the merits of the individual, his case involves consequences of the highest importance, such as cannot be decided but with great responsibility, a responsibility which I trust will insure a correct decision.

Some who think the sedition act unconstitutional may be of opinion that it is not necessary, nor even consistent with the dictates of sound policy, after a lapse of twenty years, to relieve the sufferers under that law. With such it will remain to devise a better mode of restoring and reviving, as far as it can be done by Congress, the first article of the amendments to the constitution, which was practically suspended by the sedition act, and which may be considered as null and void if the constitutionality of the act shall now receive the sanction of Congress.

If it were known with absolute certainty that a result, similar to that which attended the passing of the sedition act, would inevitably attend every similar attempt—that part of our constitution which respects the liberty of the press would remain secure from further violation. But, such a result is by no means certain—and we deceive ourselves if we suppose that the rage and fury of party are no more to prevail in this country.

Should an attempt hereafter be made to revive the sedition law, constitutional objections would have but little avail, as coming too late. It would be said the sedition act of ninety-eight was not repealed, although every effort was made to procure its repeal, expressly on constitutional grounds. It was suffered to expire by its own limitation. Its constitutionality was sanctioned by two decisions of Congress; and those decisions corroborated by all the force which the judiciary could give them.

If those who raised their voice from one extremity of the Union to the other against the constitutionality of this act, when it was passed, and when an attempt was made to repeal it, will not now, when they have the power, make an effort to repair the breach in the constitution, it will be yielding the point, and acknowledging that all their clamor was raised to gain power, which they did gain; not to preserve the constitution, which is left mutilated, without an effort at reparation. And this precedent, thus sanctioned by one party and acqui-

esced in by the other, will be considered as the legislative and judicial construction of the constitution; and, by this process, the constitution will practically be altered, and the liberty of the press be as completely within the control of Congress and the Judiciary of the United States, as if the first amendment to the constitution had declared Congress shall have power to abridge the liberty of the press.

For my part, I have never doubted that the sedition act, so far as it respects the printing and publishing of libels, was a direct, open, and unequivocal breach of the constitution. And, although I do not hold the United States responsible for all the losses sustained under that act, I would not willingly retain in our treasury a single dollar of the money iniquitously acquired under it. The whole forms but a small sum, but if it were large, it should be returned to those from whom it was taken. I should not stop to inquire whether it was a thousand or a hundred thousand dollars.

To ascertain how far this act was an abridgment of the liberty of the press, let us examine a little further into its practical operation. It is unnecessary to add any thing to what has already been said upon the trial of Matthew Lyon. The trial of Thomas Cooper, in 1800, in the Circuit Court of the United States, for the Pennsylvania District, will furnish a complete illustration of the views of those who made, and of those who administered this law.

I select this case because I was a witness of the whole trial: a trial which, at the time, filled my mind with horror and indignation. I saw a man whom it was my pride then, as it is now, to call my friend; a man of the most honorable feelings; a man whose name is identified with science and literature; the constant study of whose life it has been to render himself useful to his fellow beings; I saw this man dragged before a criminal court, arraigned, tried, and punished, for publishing words which nothing but the violence and blindness of party rage could have construed into crime. In the year '97 Mr. Cooper had asked of the President, Mr. Adams, to be appointed an agent for American claims; the request was made through Dr. Priestley directly to Mr. Adams, with a frankness warranted on the part of the Doctor by the intimacy which had long existed between them. As the application was thus personal, it was supposed to be confidential. It was unsuccessful, and there it should have rested. But, by some means never explained, two years afterwards this application was made public, and afforded the editor of a paper in Reading, an opportunity of inserting a scurrilous paragraph against Mr. Cooper. Irritated at being thus held up as a subject of ridicule, Mr. Cooper, in justification of his own conduct, published the address for which he was indicted. The words contained in the indictment, stripped of the innendoes, are the following:

"Nor do I see any impropriety in making this request of Mr. Adams; at that time he had just entered into office; he was hardly in the infancy of political mistake; even those who doubted of his capacity, thought well of his intentions. Nor were we yet saddled with the expense of a permanent navy, or threatened, under his auspices, with the existence of a standing army. Our credit was not yet reduced quite so low as to borrow money at eight per cent. in time of peace, while the unnecessary violence of official expressions might justly have provoked a war. Mr. Adams had not yet projected his embassies to Prussia, Russia, and the Sublime Porte; nor had he yet interfered, as President of the United States, to influence the decisions of a court of justice; a stretch of authority which the monarch of Great Britain would have shrunk from; an interference without precedent, against law, and against mercy! The melancholy case of Jonathan Robbins, a native citizen of America, forcibly impressed by the British, and delivered up, with the advice of Mr. Adams, to the mock trial of a British court-martial, had not yet astonished the republican citizens of this free country; a case too little known, but which the people ought to be fully apprised of before the election, and they shall be."

I have the highest veneration for the exalted statesman and revolutionary patriot against whom this censure was levelled; but he was not infallible—much less so were those around him, by whose advice, at this particular period, he was too much influenced. But, however exalted his station, he had accepted it with a full knowledge that it was the disposition and practice, and a salutary one too, in this country, to examine and censure, with great freedom, the conduct of those in power. To be censured freely, and sometimes unjustly, is a tax which every one must pay who holds the highest station in our Government. Laws which should completely prevent this, would as completely prostrate the liberties of the people.

However much Mr. Adams might have been hurt at the asperity of the language applied to him, I am confident he never intimated a wish in favor of a prosecution. Most probably this took place in consequence of the advice of those who advised that Robbins should be given up. About this time Mr. Adams thought proper to repress the zeal of his political friends by pardoning Fries, who had been guilty of a misdemeanor, but was convicted of treason, and by other acts evincing a disposition to pursue a more moderate system than that which had prevailed for two preceding years. It will also be remembered, that, not long after this period, he dismissed some of his advisers, in whom he had probably placed too much confidence.

At the present time of good feelings it seems incredible, that what Mr. Cooper said of the expenses of a permanent navy—of the standing army—the eight per cent. loan, and the projected embassies to Prussia, Russia, and the Sublime Porte, should have been considered as the subject of indictment. What was said as to the case of Jonathan Robbins, otherwise called Thomas Nash, was of a more serious character, and should have been answered, if it could have

been answered, by a true history of that transaction—not by punishing Mr. Cooper; for, if this interference on the part of the President, was without precedent against law and against mercy, fining and imprisoning Mr. Cooper could not make it otherwise.

The friends of the sedition act say that Congress were authorized to pass it, as a law necessary and proper for carrying into effect the powers vested by the constitution in the Government, under the 8th section of the 1st article of the constitution.

This part of the constitution is very elastic, and some gentleman discovered that under it Congress may do what they please, by simply making the word *necessary* mean *convenient*. But I cannot imagine what power vested by the constitution in the Government it was necessary to carry into effect by the sedition act. That no such necessity as is alleged did exist is evident from this circumstance, that the Government went on very well before that act passed, and quite as well since it has expired. However convenient, therefore, the law might have been, it certainly was not necessary. If it was necessary in the meaning of the constitution, it was indispensably necessary—not partly necessary. If necessary then, it must be necessary now, and Congress must of course be neglecting their duty in not reviving that law.

We are now in effect to declare this act to have been constitutional or unconstitutional. If we do the latter, we correct not the errors of the court, but of Congress. If the law was not constitutional when passed, the decisions of the court could not make it so. Probably the court did not think that a question for them to decide. The act was a legislative construction of the constitution expressly. It was opposed and supported on constitutional grounds, and is a declaration of the three branches of the Legislature of the meaning of the constitution in this particular. And it is not yet ascertained that, in construing the constitution, Congress is subordinate to the Judiciary. Probably the first decisive experiment upon this subject will prove the contrary.

I do not think it necessary to search for precedents to justify us in the measure now proposed. If we have no precedent let us make one that may be a memento to dominant parties not to abuse their power. But if precedents were necessary, we may find enough in the history of England, not in that of our own country; for, fortunately for us, our history affords but a few instances of the abuse of power. For such precedents we need not go back to the heavy time of York and Lancaster, when the triumphant party constantly reversed all that had been done by the party subdued. We may look into a later period, when the Stuarts and their immediate successors were upon the throne, when the principles of liberty were much better understood than practised.

The attainder of the Earl of Stafford, who had been treacherously given up by a cowardly King to the indignation of Parliament, was reversed.

The attainders against Algernon Sidney and against Lord Russell were reversed.

The attainder against Alderman Cornish was reversed, as also that against Lady Lisle, and many others. In these cases, it is true, the Parliament only reversed their own proceedings. But they sometimes reversed the proceedings of other courts, as in the case of Bastwick, Burton, and Prynne, who were tried in the court of Star Chamber, for libels, and sentenced to lose their ears, to pay a fine of five thousand pounds each, and to be imprisoned for life. This is a very strong case, and in point; for the Parliament not only reversed the sentence, but remitted the fine, and ordered satisfaction for damages to the parties injured.

I must ask the indulgence of the Senate while I read a few passages from the proceedings in this extraordinary case. I shall read them for the edification of those who are, who have been, or who hereafter may be, in favor of a sedition act.

Dr. Bastwick, Mr. Burton, and Mr. Prynne, had written some religious books, in which were contained some reflections on the Bishops, which were deemed libellous. Mr. Prynne, three years before this time, had written a book in which he censured stage plays, music, and dancing, for which he was punished by the loss of his ears. "Between eight and nine o'clock in the morning, the fourteenth of June, [1637,] the Lords being set in their places, in the said court of Star Chamber, and casting their eyes at the prisoners, then at the bar, Sir John Finch, Chief Justice of the Common Pleas, began to speak after this manner.*

"I had thought Mr. Prynne had no ears, but methinks he hath ears; which caused many of the Lords to take a stricter view of him; and, for their better satisfaction, the usher of the court was commanded to turn up his hair and show his ears; upon the sight whereof, the Lords were displeased that they had been formerly no more cut off, and cast out some disgraceful words of him.

"To which Mr. Prynne replied, My Lords, there is never a one of your honors but would be sorry to have your ears as mine are.

"The Lord Keeper replied again, In good faith, he is somewhat saucy.

"I hope, said Mr. Prynne, your honors will not be offended; I pray God to give you ears to hear.

"The business of the day, said the Lord Keeper, is to proceed on the prisoner at the bar.

"Mr. Prynne then humbly desired the court to give him leave to make a motion or two; which being granted, he moves:

"First, that their honors would be pleased to accept of a cross bill against the prelates, signed with their own hands, being that which stands with the justice of the court, which he humbly craved, and so tendered it.

"*Lord Keeper.* As for your cross bill, it is not the business of the day; hereafter, if the court should see

* Harleian Miscellany, vol. 4, p. 220.

just cause, and that it savors not of libelling, we may accept of it; for my part, I have not seen it, but have heard somewhat of it.

"*Mr. Prynne.* I hope your honors will not refuse it, being, as it is, on His Majesty's behalf. We are His Majesty's subjects, and therefore require the justice of the court.

"*Lord Keeper.* But this is not the business of the day.

"*Mr. Prynne.* Why then, my Lords, I have a second motion, which I humbly pray your honors to grant, which is, that your Lordships will please to dismiss the prelates, here now sitting, from having any voice in the censure of this cause, being generally known to be adversaries, as being no way agreeable with equity or reason, that they who are our adversaries should be our judges; therefore I humbly crave they may be expunged out of the court.

"*Lord Keeper.* In good faith it is a sweet motion; is it not? Herein you are become libellous; and if you should thus libel all the Lords and reverend judges as you do the reverend prelates, by this your plea, you would have none to pass sentence upon you for your libelling, because they are parties."

The whole trial is very interesting. I proceed to the sentence.

"Thus the prisoners, desiring to speak a little more for themselves, were commanded to silence. And so the Lords proceed to censure.

"The Lord Cettington's censure:—I condemn these three men to lose their ears, in the palace yard at Westminster, to be fined five thousand pounds a man to His Majesty, and to perpetual imprisonment, in three remote places in the kingdom, namely, the castles of Caernarvon, Cornwall, and Lancaster.

"The Lord Finch addeth to this censure:

"Mr. Prynne to be stigmatized in the cheeks with two letters, S. and L, for seditious libeller. To which all the Lords agreed."

I omit what is said of the punishment of Dr. Bastwick and Mr. Burton, which was inflicted with great cruelty, but that of Mr. Prynne deserves a particular notice:

"Now the executioner being come to sear him and cut off his ears, Mr. Prynne said these words to him: Come, friend, come burn me, cut me; I fear not; I have learned to fear the fire of hell, and not what man can do unto me. Come, sear me, sear me; I shall bear in my body the marks of the Lord Jesus; which the bloody executioner performed with extraordinary cruelty, heating his iron twice to burn one cheek, and cut one of his ears so close that he cut off a piece of his cheek. At which exquisite torture he never moved with his body, or as much as changed his countenance, but still looked up as well as he could towards Heaven, with a smiling countenance, even to the astonishment of all the beholders, and uttering, as soon as the executioner had done, this heavenly sentence: The more I am beaten down, the more I am lift up."

What protection was afforded to these wretched men by the common law, the law in which they lived, and moved, and had their being?

The honorable gentleman from Georgia admonishes us not to destroy the independence of the judiciary, the bulwark of the liberties of the people. We shall not, in the measure now proposed, in the slightest degree, interfere with the independence of the judiciary. It must be a matter of indifference to them what we do with the sedition act; it cannot affect their emoluments. I have understood that the independency of the judiciary was regulated by the greater or less permanency in the tenure of their office, and the greater or less certainty in the payment of their fixed salaries.

But I must beg leave to differ from the honorable gentleman when he informs us that our independent judiciary is the bulwark of the liberties of the people. By which he must mean, defenders of the people against the oppressions of the Government. From what I witnessed in the years 1798, 1799, and 1800, I never shall, I never can, consider our judiciary as the bulwark of the liberties of the people. The people must look out for other bulwarks for their liberties. I have the most profound respect for the learning, talents, and integrity of the honorable judges who fill our Federal bench. But, if those who carried into effect the sedition act are to be called the people's defenders, it must be for nearly the same reason that the Fates were called *Parcæ—quia non parcebant.* It would be a subject of curious investigation, how far the judiciary, from the earliest times to the present, have been the defenders of the people's liberties against the oppressions of Government; how much their zeal has been increased or diminished by the certainty or uncertainty in the tenure of office; how far by an increase or diminution of salary; how much it has been affected by a fear of loss of office or salary on one side, or the hope of further promotion or increase of salary on the other. But such speculations at present are unnecessary.

Mr. MORRILL spoke at length against the resolutions.

Mr. ROBERTS spoke in favor of the resolutions.

Mr. DANA replied to Mr. R. and others, and the Senate adjourned.

SATURDAY, January 20.

The PRESIDENT communicated a letter from the Secretary of the Navy, transmitting, for the use of the members of the Senate, sixty copies of the Naval Register for the year 1821; and the letter was read.

Sedition Law—Matthew Lyon.

The Senate then resumed the consideration of the resolutions declaring the late sedition law unconstitutional, and to indemnify those who suffered damages under it—the motion of Mr. WALKER, of Georgia, made some days ago, to postpone the resolutions indefinitely, being still under consideration.

Mr. BARBOUR again addressed the Senate in support of the resolutions, and in reply to their opponents.

Mr. SMITH also again spoke in reply to Mr.

BARBOUR and others who advocated the resolutions.

Mr. MACON likewise spoke again in support of the resolutions, and in defence of the opinions he had previously advanced.

Mr. HOLMES, of Maine, spoke at length against postponing the resolutions, though he preferred legislating for the particular case of Matthew Lyon.

Mr. WALKER, of Georgia, spoke again to vindicate his opposition to these resolutions.

The question was then taken on the indefinite postponement of the resolutions, and was decided in the affirmative, as follows:

YEAS.—Messrs. Chandler, Dana, Eaton, Elliott, Gaillard, Horsey, Hunter, Johnson of Louisiana, King of New York, Lanman, Lloyd, Mills, Morrill, Noble, Otis, Palmer, Parrott, Pinkney, Smith, Taylor, Tichenor, Van Dyke, Walker of Georgia, and Williams of Tennessee—24.

NAYS.—Messrs. Barbour, Brown, Dickerson, Holmes of Maine, Holmes of Mississippi, Johnson of Kentucky, King of Alabama, Lowrie, Macon, Pleasants, Roberts, Ruggles, Sanford, Stokes, Talbot, Thomas, Trimble, Walker of Alabama, and Williams of Mississippi—19.

So the report and resolutions were rejected.

Mr. BARBOUR then gave notice that he should on Monday ask leave to bring in a bill for the relief of Matthew Lyon.

THURSDAY, January 25.

National Vaccine Institution.

The Senate next took up the bill from the other House to incorporate the Managers of the National Vaccine Institution.

Mr. LLOYD moved so to amend the bill as to reserve to Congress the power at any time to repeal the act, and to give it duration until Congress should so repeal it—instead of incorporating it unconditionally and positively for the term of thirty years, as the bill stood. Mr. L. also adverted to the anticipated utility of the institution, and to some of the reasons in its support.

After some debate between Mr. ROBERTS (who was opposed to the bill altogether, and not satisfied with the proposed amendment) and Mr. LLOYD, the amendment was adopted.

On the motion also of Mr. LLOYD, the bill was further so amended as to require from the President of the Institution on oath an annual report of their property, funds, receipts, expenditures, &c., to the Secretary of the Treasury, and by him to be laid before Congress.

On motion of Mr. LLOYD, several other amendments were made to the details of the bill—amongst them, an obligation on the managers to provide for the vaccination of indigent persons, free of any charge. Mr. L. having gone through the bill,

Mr. ROBERTS entered into a very general review of the provisions of the bill, to show their inadequacy to the objects contemplated by the friends of the measure, as well as their objectionable character in some respects; and having some doubts of the constitutionality of the bill in its present shape, which question, however, he did not discuss.

Mr. LLOYD rose to reply to Mr. R., when, on motion of Mr. TALBOT, the bill was laid on the table.

FRIDAY, January 26.

Virginia Military Lands.

The bill from the other House for extending the time for locating Virginia military land warrants (for two years longer) was taken up in Committee of the Whole.

This subject gave rise, as usual when under consideration heretofore, to a good deal of discussion.

Mr. THOMAS briefly explained to the Senate the considerations in favor of extending the indulgence proposed by the bill.

Mr. KING, of New York, thought it was time that something explicit was done, as to the time when this subject should be closed, and some report made of the lands located, and those which remained for the disposal of the United States, &c. He gave a brief narrative of the circumstances which produced the reservation by Virginia, of the country between the Sciota and Little Miami, for satisfying her military land warrants. The body of land in Ohio, reserved by Virginia for this purpose, was of great extent, and the surplus belonged as much to the United States as any other land in that State; and it was time, he thought, that something was done to show what quantity was left—how this matter stood—and to begin to think of some termination to this long-standing subject. Instead of passing this bill with an extension of two or three years, he would give but one year, with an understanding that it would not be extended longer, unless some explanation should be given to justify it.

Mr. BARBOUR entered into a history of the subject, to show the difficulties which had impeded a final adjustment of this whole subject. He adverted to the cession made by Virginia to the Union, of all her immense northwestern possessions, presumed then to extend to the Pacific Ocean, out of which territory she had reserved a tract for satisfying the pledge she had given to her Revolutionary officers and soldiers. This pledge was made as well to those of the State line as of the Continental line, but in the contract of cession and reservation, by some unknown means, the word *State* was omitted, and the Congress of the United States had taken advantage of this omission, in the face of the most conclusive circumstances, even its recognition of the principle, in one of the articles, to reject all applications to satisfy warrants of the State line. Mr. B. animadverted on this conduct, which he would not characterize by the epithet which would be applied to it in private life. Leaving this part of the subject, Mr. B. argued to show that most of the

persons originally possessing these unlocated titles, being scattered far and wide, were either ignorant, or their descendants or heirs were ignorant, of their title; many of these were orphans, who would sooner or later learn their right and claim it; that it would be cruel and unjust to foreclose them, &c., and he defended the bill as it stood.

Mr. RUGGLES, of Ohio, moved to strike out *two* years, and insert *one* year as the time of extension. He argued that those lands which were not taken up by the warrants remained unsettled, and that the further extension of indulgence operated to prevent the populating of the country in question; that there ought to be some limit established to this indulgence, and he thought one year more would enable Congress to judge when this limit could be fixed, and a termination be put to this drawback on the settlement of the country.

The motion was opposed by Messrs. BARBOUR, TALBOT, and TEMBLE; and it was negatived without a division.

The bill was then reported to the Senate, and ordered to a third reading.

WEDNESDAY, February 5.

Commodore Tucker.

The Senate then again took up the bill for the relief of Commodore Samuel Tucker, authorizing him to be placed on the list of invalid pensioners, at $50 a month; on which bill a long and wide debate took place.

Mr. SMITH opposed this bill on principle; admitting the merits of Captain T., but arguing that, if really an invalid and unable to maintain himself, there was already provision made by law to embrace his case and afford relief; that, if not an invalid, this bill ought not to pass, the system of pensioning for public services merely being bad in itself, and still worse in its tendency. Mr. S. also went into an examination of the circumstances alleged in the case of the applicant, to show that they did not justify the passage of the bill; that the applicant had been already, long since, uncommonly well provided for by the public, to support which he referred to resolves of Congress, &c.; that, affording this gratuitous relief to the applicant, would be treading on the rights of thousands of other citizens equally meritorious, &c.

Mr. HOLMES, of Maine, replied to Mr. S., and submitted a number of arguments, in addition to those which he used when the bill was before under consideration, in support of it; referring to the long and singularly successful services, and the highly gallant conduct of Commodore T. during the Revolutionary war, and his present reduced circumstances and great age, to establish the justice of granting him a maintenance out of the navy pension fund; that fund being expressly pledged to afford relief in such cases as the present.

Mr. SMITH replied, and contended that this very pension fund was intended to provide for disabled seamen, and not for those who were not disabled; that Commodore T. did not come within the description, and therefore was not entitled to be distinguished from all the other honorable and brave men who have grown old since they signalized themselves in the Revolution. He argued also, (in reply to a remark of Mr. WALKER, of Georgia, the other day,) that the statute of limitations was a just law, as well as a wise and prudent one.

Mr. CHANDLER made a remark or two in reply to Mr. SMITH.

Mr. KING, of New York, placed this case on a footing with a few others of the Revolutionary class, particularly that of General Stark, for whom a bill passed at a recent session. He adverted to some of the prominent features of Commodore T.'s Revolutionary services, and contended that it was not just or equitable that a veteran of the Revolution such as he, in want now of the means of support, should ask relief in vain. There was no danger, he argued, from such a course; for, however natural the prejudices in this country which existed against the pension system, they arose from the abuses practised in Great Britain, where pensions were lavished by the Crown upon favorites of every kind, often without regard to public services or private virtues. There was no danger of such an abuse in this country. The justice of military pensions had been settled in this country; it was a power delegated to the Government by the constitution; and there was no risk of its abuse in a Government constituted as ours, as the people, holding the corrective, would always apply a remedy if the practice was ever carried beyond its just and proper limits.

Mr. SMITH, after subjoining a few remarks, moved to postpone the bill indefinitely.

Mr. MACON observed, that nothing would be more curious than a history of the pensions of this country; the practice was constantly getting wider and wider; but it had been well said, the history of the country was lost. He referred to the circumstances of the first pensions and those granted since, to show the regular extension of the principle beyond the limits at first deemed right. A rule was always found for a new case, and the case gave rise to a new rule, so that the principle was constantly stretching. He was opposed to this course, and argued briefly against it.

Mr. DANA spoke to show that there was no principle opposed to the case of Commodore T., and that the relief ought to be granted, as it might be done without danger of exceeding the just limits to which Congress were authorized to go by the spirit and principles of our Government.

Mr. ROBERTS opposed this pension on principle, for the same reasons that he opposed the pension of General Stark. He observed, that if pensions were granted for military services, without disability, it was not far removed, and would not long be distinguished from civil pensions, which would probably follow; and argued to show the evil tendency of authorizing

pensions in cases like the present, which could not justly be distinguished from a civil pension.

Mr. PLEASANTS stated the ground on which the Naval Committee reported the bill, which was intended to give Commodore T. the amount of half-pay for a certain period, to which he was strictly entitled; to show which Mr. P. adduced the facts of the case.

Mr. OTIS maintained that the case of Commodore T. entitled him, strictly, to avail himself of the benefits of the navy pension fund; that the bill called for no new grant of money out of the Treasury; that it violated no principle; and that it did not become a magnanimous legislature to withhold this boon from him, to which he was so signally entitled in justice and gratitude.

Messrs. SMITH and MACON added a few remarks, and Mr. WALKER, of Georgia, also a few, in addition to what he had said the other day in support of the claim, declining to go again at large into the case, as it had been so ably supported.

The motion to postpone the bill indefinitely was negatived—yeas 13, nays 24.

After an unsuccessful attempt of Mr. ROBERTS to reduce the proposed allowance to $20 a month, the bill was ordered to be engrossed for a third reading.

TUESDAY, February 6.

Mr. BARBOUR submitted the following motion for consideration:

Resolved, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice President of the United States, and of notifying the persons elected of their election.

FRIDAY, February 9.

Punishment of Piracy.

Mr. SMITH, from the Committee on the Judiciary, to whom was referred the resolution of the 4th of December, "to inquire into the propriety of so modifying the law punishing piracy as to authorize the President of the United States, in such cases as he may deem expedient, to commute capital punishments for confinement in penitentiary houses," reported that it is inexpedient to make the modification suggested; and the report was read. It is as follows:

The object of the resolution is to alter the criminal code of the United States so far as to place within the power of the President of the United States the complete control over the punishment now affixed by law to the crime of piracy, and to soften it down from death to the less rigorous punishment of confinement in penitentiary houses.

In the catalogue of human offences, if there is any one supremely distinguished for its enormity over others, it is piracy. It can only be committed by those whose hearts have become base by habitual depravity. It is called by jurists an offence against the universal laws of society. A pirate is *hostis humani generis*. He is at war with his species, and has renounced the protection of all civilized Governments, and abandoned himself again to the savage state of nature. His flag consists of a "black field, with a death's head, a battle-axe, and an hour-glass." These are the ensigns of his profession. He does not select the enemies of his native country as the only objects of his conquest, but attacks indiscriminately the defenceless of every nation; prowls every ocean in quest of plunder; and murders or jeopardizes the lives of all who fall within his power, without regard to nation, to age, or to sex. With such a blood-stained front, a pirate can have no claim to the clemency of a Government, the protection of which he has voluntarily renounced, and against which he has so highly offended.

The Executive clemency has more than sufficient range for its exercise, without the aid sought for by this resolution. Whatever may be the public feeling against a pirate previous to his trial and conviction, as soon as that takes place that feeling subsides and becomes enlisted on the part of the criminal. There is not a favorable trait in his case but what is brought up and mingled with as many circumstances of pity and compassion as his counsel can condense in a petition, which everybody subscribes without any knowledge of the facts; and this is presented to the Executive, upon which alone he is to judge the case. All the atrocious circumstances are kept out of view. There is no one hardy enough to tell that this criminal and his associates had boarded a defenceless ship, and, after plundering all that was valuable, had, with the most unrelenting cruelty, butchered the whole crew and passengers; or crowded them into a small boat, in the midst of the sea, without provisions or clothing, and set them adrift, where their destruction was inevitable; or, the better to secure their purpose, had shut all, both male and female, under deck, and sunk the ship, to elude detection, or to indulge an insatiable thirst for cruelty.

The object of capital punishment is to prevent the offender from committing further offences, or to deter others from doing so by the example. If it be commuted for temporary confinement, it can effect neither to any valuable purpose. The temptation is so strong, and detection so difficult and so rare, that but few, it is feared, can be deterred. The punishment of death is inflicted upon pirates by all civilized nations, notwithstanding which it is a growing evil; every sea is now crowded with them, which, instead of diminishing, ought to increase the reasons for inflicting capital punishment.

The committee are of opinion that capital punishment is the appropriate punishment for piracy, and that it would be inexpedient to commute it for confinement in penitentiary houses.

Election of President.

Mr. BARBOUR then, from the joint select committee appointed on the subject, reported the following resolutions:

Resolved, That the two Houses shall assemble in the Chamber of the House of Representatives on Wednesday next, at 12 o'clock, and the President of the Senate shall be the presiding officer; that one person be appointed a Teller on the part of the Senate, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of

the vote, and the person elected, to the two Houses assembled as aforesaid; which shall be deemed a declaration of the persons elected President and Vice President of the United States, and, together with the list of the votes, be entered on the Journals of the two Houses.

Resolved, That if any objection be made to the vote of Missouri, and the counting or omitting to count which shall not essentially change the result of the election; in that case they shall be reported by the President of the Senate in the following manner: Were the votes of Missouri to be counted, the result would be for A. B., President of the United States, —— votes; if not counted, for A. B., as President of the United States, —— votes; but, in either event, A. B. is elected President of the United States; and in the same manner for Vice President.

Mr. BARBOUR explained, in detail, the reasons which influenced the committee in adopting the resolutions which it recommended.

Mr. KING, of New York, spoke in particular reference to what he deemed the correct course of proceeding in joint meetings; thinking it consistent with the constitution, and with propriety, that the House should come to the Senate, if the apartment had not rendered it inconvenient; and that, when a convenient plan should be completed for joint meetings, he hoped the practice heretofore prevailing would not be considered in the light of a precedent, but that they should repair thither, and the President of the Senate preside in the joint meeting, &c.

Mr. MACON offered some remarks, explanatory of the views of the committee on the points before them—some thinking the votes of Missouri ought to be received and counted, and others that they ought to be rejected; that they had agreed on the second resolution as the most likely course to reconcile any difficulty. As to the place of meeting, the Chamber of the Senate would have been recommended, (he was understood to say,) but for the reason that it could not accommodate comfortably the two Houses.

The question being put on the first resolution, it was agreed to, *nem. con.*

On the second resolution a long debate took place. It was opposed by Messrs. SMITH, TALBOT, WILLIAMS, of Tennessee, and LANMAN, on various grounds; principally, for the reasons that it was not competent in the Senate to decide such a question in anticipation; that the proper time to consider and settle it was the day appointed by the constitution; that the two Houses would not be bound to-morrow by this report; that it was useless to touch the question now, whether Missouri was a State or not, or had a right to vote; that her votes could not be legally known now, &c.

The resolution was defended by Messrs. BARBOUR, OTIS, and JOHNSON, of Kentucky, on the grounds that, as the question would certainly arise to-morrow in joint meeting, it was much better to adjust it now, and prevent all difficulty or trouble; that was wrong to allow the pleasure and good feelings growing out of the event of to-morrow, a great and pleasing incident illustrative of our free institutions, to be disturbed by a question which could be so well settled previously, &c.

Mr. KING, of New York, in accordance with the opinions he had submitted, wished some amendment introduced to prevent the mode of proceeding from being quoted as a precedent hereafter—an amendment declaring that, if any question should arise relative to any votes, in joint meeting, that the two Houses would separate to consider the case, and not decide it jointly.

Mr. BARBOUR said that, on the present occasion, as the election could not be affected by the votes of any one State, no difficulty could arise; and that it was his intention hereafter to bring the subject up, to remedy what he considered a *casus omissus* in the constitution, either by an act of Congress, if that should appear sufficient, or, if not, by proposing an amendment to the constitution itself.

The second resolution was then also agreed to; and the Senate adjourned.

WEDNESDAY, February 14.

The Senate proceeded to the appointment of a Teller on their part, in pursuance of the report of the joint committee appointed to consider and report a mode of examining the votes for President and Vice President of the United States; and Mr. BARBOUR was appointed.

Electoral Votes for President.

A message from the House of Representatives informed the Senate that the House of Representatives have rejected the resolution of the Senate declaring the admission of the State of Missouri into the Union. The House of Representatives concur in the report of the joint committee appointed to make arrangements upon the subject of counting the votes for PRESIDENT and VICE PRESIDENT of the UNITED STATES, and have appointed tellers on their part, and are now ready to receive the Senate to perform that ceremony.

Whereupon, the two Houses of Congress, agreeably to the joint resolution, assembled in the Representatives' Chamber, and the certificates of the Electors of the several States, beginning with the State of New Hampshire, were, by the President of the Senate, opened and delivered to tellers appointed for the purpose, by whom they were read, except the State of Missouri; and, when the certificate of the Electors of that State was opened, an objection was made by Mr. LIVERMORE, a member of the House of Representatives from the State of New Hampshire, to counting said votes. Whereupon, on motion, by Mr. WILLIAMS, of Tennessee, the Senate returned to their own Chamber.

A message from the House of Representatives informed the Senate that the House of Representatives is now ready to receive the Senate in

the Chamber of the House of Representatives for the purpose of continuing the enumeration of the votes of the Electors for President and Vice President, according to the joint resolutions agreed upon between the two Houses.

On motion, by Mr. BARBOUR, it was

Resolved, That the Senate proceed to meet the House of Representatives, in order to conclude the counting of the votes for President and Vice President of the United States, according to the last of the joint resolutions adopted for that purpose.

Whereupon, the two Houses having again assembled in the Representatives' Chamber, the certificate of the Electors of the State of Missouri was, by the President of the Senate, delivered to the tellers, who read the same, and who, having examined and ascertained the whole number of votes, presented a list thereof to the President of the Senate, by whom it was read, as follows:

Number of votes to which each State is entitled.	STATES.	Preside't. James Monroe, of Virginia.	Vice President. John Quincy Adams, of Mass.	Daniel D. Tompkins, of New York.	Richard Stockton, of N. Jersey.	Robert G. Harper, of Maryland.	Richard Rush, of Pennsylvania.	Daniel Rodney, of Delaware.
8	New Hampshire	7	1	7			1	
15	Massachusetts	15		7	8			
4	Rhode Island	4		4				
9	Connecticut	9		9				
8	Vermont	8		8				
29	New York	29		29				
8	New Jersey	8		8				
25	Pennsylvania	24		24				
4	Delaware	4						4
11	Maryland	11		10		1		
25	Virginia	25		25				
15	North Carolina	15		15				
11	South Carolina	11		11				
8	Georgia	8		8				
12	Kentucky	12		12				
8	Tennessee	7		7				
8	Ohio	8		8				
3	Louisiana	3		3				
3	Indiana	3		3				
3	Mississippi	2		2				
3	Illinois	3		3				
3	Alabama	3		3				
9	Maine	9		9				
3	Missouri	3		3				
		228	1	215	8	1	1	4

The whole number of the Electors appointed being 235, including those of Missouri, of which 118 make a majority; or, excluding the Electors of Missouri, the whole number would be 232, of which 117 make a majority; but, in either event, JAMES MONROE, of Virginia, is elected PRESIDENT, and DANIEL D. TOMPKINS, of New York, is elected VICE PRESIDENT of the United States.

Whereupon,

The President of the Senate declared JAMES MONROE, of Virginia, duly elected President of the United States, commencing with the fourth day of March next; and DANIEL D. TOMPKINS Vice President of the United States, commencing with the fourth day of March next.

The votes of the Electors were then delivered to the Secretary of the Senate; the two Houses separated, and the Senate returned to their own Chamber, and then adjourned.

FRIDAY, February 16.

Missouri State Constitution—Citizenship of Free Persons of Color.

Mr. ROBERTS asked and obtained leave to bring in a resolution declaring the admission of the State of Missouri into the Union.

The resolution is as follows:

"*Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the State of Missouri shall be, and is hereby declared, one of the United States of America, and is admitted into the Union on an equal footing with the original States in all respects whatever: *Provided*, That the following be taken as fundamental conditions and terms upon which the said State is admitted into the Union, namely: that the fourth clause of the twenty-sixth section of the third article of the constitution, submitted by the people of Missouri to the consideration of Congress, shall, as soon as the provisions of said constitution will admit, be so amended, that it shall not be applicable to citizens of any State in this Union; and that, until so amended, no law, passed in conformity thereto, shall be construed to extend to any citizen of either State in this Union."

Mr. VAN DYKE, of Delaware, said he hoped the gentleman would not understand him, in making the motion which he was about to make, as offering any disrespect towards him or his proposition; but, Mr. VAN DYKE said, he should consider it unfortunate for the Senate now to take any step in this business. The Senate ought to recollect the course this subject had taken; they had at an early period sent to the other House a resolution for the admission of the State into the Union, containing a proviso which it was hoped would obviate all objection to it. That resolution, however, had been rejected by the House of Representatives. They have informed us, by message, of its rejection, without any indication of what would be acceptable to them; and that message is scarcely cold before we have a proposition to bring forward another resolution. He thought the Senate had better not stir in the subject again so soon; but that it would be more expedient to wait a while at

least, and see what the other House should do, if it did any thing. He had no objection to make another effort to get the State admitted, but to make it so soon after the fate of the first proposition had been announced from the other House, would be premature, he thought, and unwise. If the Senate had not moved first in this business, but had now its resolution to send to the other House as an original proposition, he thought it highly probable it would prevail there. With the best intentions, that resolution had been sent there; it had been rejected; and the Senate was as yet ignorant of the form of admission which would be acceptable to that body. He hoped the Senate would keep back, a little longer at least, any new proposition; and therefore moved that the motion to grant the leave asked for, be postponed until Monday next.

Mr. ROBERTS was of opinion that the Senate might, without the slightest departure from propriety or dignity, receive the resolution; and then he should have no objection to laying it on the table for some days; it would then be before the Senate, and gentlemen could give it due reflection. Mr. R. said he offered this resolution from a strong and serious conviction of duty; and, as the session was near its end, he trusted that the Senate would not allow any punctilio to interfere with an object so important. He was one who had been unable to vote for the former resolution which passed the Senate; that having failed in the other branch, he now offered such a one as he could support. He earnestly desired the admission of the State into the Union; it was an object all important to the nation and to its public councils, and he hoped the Senate would so far indulge him at least as to entertain his proposition, and then, if it saw fit, lay it by for future decision.

Mr. WALKER, of Georgia, viewed this proposition as a kind of peace offering on the part of those gentlemen of the Senate who had opposed the former resolution. He was extremely anxious that the question should be settled and that nothing should be left undone to effect a settlement of it. He therefore acknowledged himself much obliged to the gentleman from Pennsylvania for bringing this proposition forward. Whatever may be the decisions of the other branch, said Mr. W., let us do all we can to preserve the peace and harmony of the Union. He hoped no point of etiquette would interfere with the motion, but that the leave would be granted; that the proposition would be ultimately adopted, and the tranquillity of the nation be restored by the admission of the State without more delay.

Mr. MORRILL, of New Hampshire, adverted to the unpleasant feelings and effects of this long agitated Missouri question; the great portion of time which it consumed of the last and of the present session; the embarrassment it produced in the public business. It pursues us, said he, everywhere in the House, and from one House to the other, into the committee rooms and out of doors. He sincerely hoped that it might be terminated at the present session, and was a little surprised that his friend from Delaware should make an objection to receiving a proposition which might bring the subject to a favorable issue. The act of the last session concerning Missouri, Mr. M. said, passed both Houses of Congress, and received the Executive sanction. Had that act been properly met by Missouri, there would have been no difficulty in her admission; the former question was considered as settled, and, but for the clause now objected to, her admission would have met with no serious opposition. He thought every effort ought to be made to bring the subject to an amicable issue, and hoped it would be ended by the passage of this resolution. There was nothing, among the numerous subjects before Congress, of more importance, and he thought the Senate ought to receive, without postponement, the proposition now offered.

Mr. JOHNSON, of Kentucky, could not see, because the Senate had done its duty once, that it was to do nothing more. He, for one, was ready to embrace every opportunity of performing it. How, he asked, were the Senate to ascertain the sentiments of the other House, or of each other, but by proceeding in this way? Caucussing was no longer fashionable here, and the distance over which members were scattered, completely prevented an interchange of opinions in private. It was the best course to do what they could when the opportunity offered. This subject was of more importance than any other before Congress; it distracted the legislative councils, and impeded all other business. An immense quantity of business of the deepest concern to the nation continued before them, to be done during the short remainder of the session—more than he had ever known, even at the commencement of some sessions; yet none of this would or could be done until this all-devouring subject of Missouri was settled. Every other subject was put in jeopardy by it. The relief of our land debtors is endangered—the army is endangered—the Union itself is endangered—those ties which have bound us together as a nation of brothers, have been weakened by this all-distracting question. He would therefore meet it, and continue to meet it, until the 4th of March; he would discard all other subjects to make an effort to terminate and adjust it. We see, said he, that nothing else can be done; we send to the other House bill after bill, but in vain; we hear of nothing there but Missouri! Missouri!! Missouri!!! and thus will it continue until we can end it. Mr. J. avowed that he felt under obligations to the gentleman from Pennsylvania, for bringing this proposition forward; and, unless some member would get up and say he was not ready to vote on granting the leave, he should oppose the postponement.

Mr. BARBOUR, of Virginia, said he would vote against the postponement, because it was

an unusual course, and he was inclined to advance, under the hope that this resolution would receive the sanction of the Senate and of the House of Representatives, and put an end to this painful contest. This proposition would either obtain with the other House, or it would not, and though there might be something in its passage now, like a surrender of etiquette on the part of the Senate, yet he would not consider a little matter of form as more important than the adjustment of this all-important question. If it should finally fail, a great responsibility would rest somewhere. Gentlemen might smile, he said, but they who treated the subject lightly were far removed from the scene of real excitement. Could they witness the sensations which it produced in that part of the Union where its effects were most to be dreaded, they would think more gravely of it. When the Senate, said Mr. B., shall have manifested a desire, an anxious desire, to settle the question by one more effort, and shall still fail, our skirts will be clear; and let what consequences ensue that may, our records will show that *we* have done what we could to prevent them. If nothing serious ensue, still we shall have nothing to regret. Mr. B. hoped the proposition would at least be received, if then laid on the table.

Mr. HOLMES, of Maine, was willing to grant the leave requested, but merely as a matter of courtesy—not from a hope of its doing any good. The Senate had passed a resolution to admit the State; it was sent to the other House, where it was amended, and then rejected. Was it for the Senate immediately to shape another and send to them, or to wait and see if that House would agree on any proposition of its own? If they send us none, it will be evidence that they are not disposed to do any thing. The public mind, Mr. H. said, had been much excited on this subject, but a change was taking place, and the people were beginning to say, let Missouri into the Union—if you do not, let the responsibility rest where it belongs.

Mr. VAN DYKE disclaimed being influenced in his motion, by motives of etiquette. He acted from a conviction of its expediency in regard to the object in view—the admission of the State. He believed Missouri would be admitted into the Union before the 4th of March, on a footing with the other States; but he thought it impolitic for the Senate again to take up the subject so hastily, and that he was walking in the plain path of his duty towards Missouri, in regard to her admission, in making his motion to postpone the introduction of this resolution. The proposition was the same in substance as the former resolution, and if there was no difficulty apprehended here, on it, why should it be pressed again so soon; why not allow the other House some time to act on a plan of its own, or at least wait a short time and observe the indications there? The strength of Missouri was increasing in this House at least, and it was prudent to rest awhile, and discover what course the other House was likely to take. The proposition could sustain no injury by the delay; it was before the Senate, in fact, though not in form, for it had been printed and was on the table of each member. All he asked was, that the Senate would hold its hand until Monday next, before it entertained the proposition.

Mr. WALKER, of Alabama, concurred in the opinions of the gentleman from Delaware. The Senate had evinced, at all times, a disposition to admit Missouri. It had at an early period of the session, passed a resolution declaring her admission, and sent it to the other House, where it was finally rejected. The Senate knew that many propositions had been before that House on this subject; none of them had succeeded, and there was, consequently, no evidence of a disposition there to admit the State. Nothing would be gained by this resolution, but affording to the House of Representatives another opportunity of having the subject before them at large; for this identical proposition, with the exception of perhaps a single word, had already been considered in that House, and been rejected by it. He was of opinion that it would be much better for the Senate now to wait until the other House took some step of its own in the business, as it had rejected the resolution sent down by the Senate. He could perceive no probable good likely to result from the Senate's again acting on the subject; its disposition was undoubted; it had done its duty; and he was for giving the House an opportunity of adopting its own plan, if it had any.

Mr. CHANDLER, of Maine, conceived that the Senate had done every thing, so far, that was proper on the subject. If it entertained this proposition, it might prevent the other House from proceeding in its endeavors to agree on some plan of its own; and he was in favor, therefore, of deferring any other step on the part of the Senate for some time at least.

The question being then taken on postponing the motion for leave, it was decided in the negative—18 rising in favor of the postponement, and 20 against it.

The question then being on granting the leave,

Mr. SMITH, of South Carolina, made a point of order. The 13th of the joint rules of the two Houses inhibited the re-introduction, in either House, without a notice of ten days, of any bill or resolution which should have been passed by one House and sent to the other, and there rejected. Mr. S. conceived that this rule would oppose the introduction of this resolution at this time, ten days' notice not having been given by the mover; and Mr. S. was proceeding to support his objection with some arguments; when

The PRESIDENT overruled the objection taken, referring to the practice of the Senate in former cases.

The question being then put on granting the leave, it was carried without a division, and the resolution received its first reading.

Death of the Representative William A. Burwell, Esq.

A message having been received from the House of Representatives, announcing the death of the Hon. WILLIAM A. BURWELL, a member of that House from the State of Virginia—

On motion of Mr. PLEASANTS, it was

Resolved, unanimously, That the members of the Senate will attend the funeral of the Hon. William A. Burwell, late a member of the House of Representatives from the State of Virginia, to-morrow, at ten o'clock, A. M.; and, as a testimony of respect for the memory of the deceased, will go into mourning, and wear crape for thirty days.

The Senate then adjourned.

WEDNESDAY, February 21.

Missouri.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution offered by Mr. ROBERTS.

Much debate took place on the merits of the resolution, as well as on the expediency of now acting on it, in the course of which Mr. BARBOUR moved to strike out the proviso, but subsequently withdrew the motion. The resolution was advocated by Messrs. ROBERTS, LOWRIE, and BARBOUR, and was opposed by Messrs. SMITH and VAN DYKE.

Mr. LOWRIE, after observing that the resolution had been brought forward by those who had opposed the former resolution of the Senate, from a sincere desire to see the State admitted, and with the view of meeting gentlemen on the other side, as far as they could; but, as the proposition appeared not to be acceptable to them, he, for one, would not press it on them, and therefore moved its indefinite postponement.

This motion was negatived—yeas 18, nays 24, as follows:

YEAS.—Messrs. Brown, Chandler, Dickerson, Eaton, Horsey, King of New York, Lanman, Lowrie, Macon, Mills, Noble, Otis, Sanford, Smith, Southard, Tichenor, Van Dyke, and Williams of Mississippi.

NAYS.—Messrs. Barbour, Dana, Edwards, Elliott, Gaillard, Holmes of Maine, Holmes of Mississippi, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Knight, Morrill, Palmer, Parrott, Pleasants, Roberts, Stokes, Talbot, Taylor, Thomas, Trimble, Walker of Alabama, Walker of Georgia, and Williams of Tennessee.

Mr. WILLIAMS, of Tennessee, made an unsuccessful motion to lay the resolution on the table, with the view of taking up the Army Bill.

Mr. KING, of New York, renewed the motion previously made and withdrawn by Mr. BARBOUR, to strike from the resolution all the proviso, as follows:

"*Provided*, That the following be taken as fundamental conditions and terms upon which the said State is admitted into the Union, namely: that the fourth clause of the twenty-sixth section of the third article of the constitution, submitted by the people of Missouri to the consideration of Congress, shall, as soon as the provisions of said constitution will admit, be so modified, that it shall not impair the privileges or immunities of any description of persons who may now be, or hereafter shall become, citizens of any State in this Union; and that, until so modified, no law, passed in conformity thereto, shall be construed to exclude any citizen of either State in this Union, from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States."

The motion was decided, without debate, in the negative, by yeas and nays, as follows:

YEAS.—Messrs. Brown, Gaillard, Holmes of Mississippi, King of Alabama, King of New York, Macon, Mills, Otis, Sanford, Smith, Tichenor, Van Dyke, Walker of Alabama, Williams of Mississippi, and Williams of Tennessee—15.

NAYS.—Messrs. Barbour, Chandler, Dana, Dickerson, Eaton, Edwards, Elliott, Holmes of Maine, Horsey, Johnson of Kentucky, Johnson of Louisiana, Knight, Lanman, Lowrie, Morrill, Noble, Palmer, Parrott, Pleasants, Roberts, Southard, Stokes, Talbot, Taylor, Thomas, Trimble, and Walker of Georgia—27.

Mr. BROWN moved to amend the proviso so as to deprive it of its injunction on the State of Missouri, to amend its constitution in the clause referred to, and leave it to read, that the clause "should not be so construed as to impair the privileges of citizens of other States," &c.

Mr. ROBERTS objected to this amendment, as it would change the whole principle of the proviso, and give the resolution such a shape as would compel him to oppose it.

Mr. BROWN maintained his motion at some length. Had the resolution come from the other House in the shape it now was, he should perhaps vote for it, for the sake of closing this long-standing and disagreeable question, to accomplish which, he was willing to make great sacrifices; but he was not ready to play so bold a game as to volunteer to the other House a surrender of the whole principle for which they contended; especially as the Senate had already tendered to it one proposition, which had been there rejected. A compromise to the extent the proviso went, would be time enough when it came from the other House.

Mr. TALBOT conceived that the amendment proposed by Mr. BROWN would be mischievous, and produce no good. On so great a subject, and to settle a question so momentous, he was willing to give up something, and hold out to the other side the hand of compromise; but it was certainly a question which every one was to settle with his own conscience.

The question being taken on Mr. BROWN's motion, it was negatived without a division.

Mr. TRIMBLE moved to amend the proviso, by adding thereto the following clause:

And provided, also, That the 8th article of the said constitution [the article authorizing the establishment of banks] shall be annulled as soon as said constitution, in conformity with the provisions thereof, is subject to amendment.

This amendment was rejected without debate, and without division.

The question was then put on ordering the resolution to be engrossed and read the third time; and was decided by yeas and nays as follows:

YEAS.—Messrs. Barbour, Edwards, Elliott, Holmes of Maine, Horsey, Johnson of Kentucky, Johnson of Louisiana, Lowrie, Morrill, Parrott, Pleasants, Roberts, Southard, Stokes, Talbot, Taylor, Thomas, Walker of Georgia, and Williams of Tennessee—19.

NAYS.—Messrs. Brown, Chandler, Dana, Dickerson, Eaton, Gaillard, Holmes of Mississippi, King of Alabama, King of New York, Knight, Lanman, Macon, Mills, Noble, Otis, Palmer, Ruggles, Sanford, Smith, Tichenor, Trimble, Van Dyke, Walker of Alabama, and Williams of Mississippi—24.

So the resolution was rejected.

FRIDAY, February 23.

Florida Treaty Ratified, and Legislative Measures required for taking Possession of the Territory, and its temporary Government.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

The Treaty of Amity, Settlement, and Limits, between the United States and Spain, signed on the 22d of February, 1819, having been ratified by the contracting parties, and the ratifications having been exchanged, it is herewith communicated to Congress, that such legislative measures may be taken as they shal' judge proper for carrying the same into execution.

JAMES MONROE.

WASHINGTON, *Feb.* 22, 1821.

The message and treaty were read, and referred to the Committee on Foreign Relations.

SATURDAY, February 24.

Admission of Missouri — Message from the House of Representatives.

On motion of Mr. HOLMES, of Maine, the Senate proceeded to consider the message from the House, announcing their appointment of a committee to meet such committee as may be appointed by the Senate, on the subject of the admission of Missouri into the Union; and the question was on concurring with the other House in the course proposed.

Mr. SMITH, of South Carolina, observed, that, from the hasty glance he could give the subject, he saw no good reason for such a proceeding on the part of the Senate. There was no doubt or difficulty here on the subject of Missouri. If there was any in the other House, he had no objection to give them the advice of the Senate, if necessary, but it could be no reason for the appointment of a committee on the part of this body to consult with them. Not being able to see the expediency of the course proposed, Mr. S. moved that the message lie on the table.

Mr. BARBOUR, of Virginia, remarked that the time left to act on this matter was so short that a little delay might defeat the object. The subject was one of great importance, Mr. B. said, and he hoped the Senate would act on it immediately. The course proposed by the other House, was not a novelty in the proceedings of Congress, or of the English Parliament, whence most of our rules were drawn. Committees of conference were frequently appointed on subjects of much less importance than the present; and it was proper that, when the two Houses do not agree on the principles of a public act, there should be a joint committee to see if they can devise any course in which the two branches would probably meet. This was a mere proposition for such an inquiry, and he hoped the Senate would accede to it.

Mr. SMITH said he had no opportunity to see what the proposition from the other House actually was, as it had just been received, and once read. If the Senate were straitened for time, it was a reason for not acting precipitately, and the importance of the subject, which had been urged in favor of an immediate decision, was a reason for acting with caution. As to the mode of proceeding in Parliament, it did not apply to this case. If the other House had sent back the resolution of the Senate for the admission of Missouri, with an amendment, on which the two Houses could not agree, a committee of conference would be proper on the disagreeing votes; but a committee of conference to settle original principles was a novelty. He hoped, at any rate, that the Senate would allow a little time—even half an hour—to think of this proposition.

Mr. HOLMES, of Maine, hoped that the message would not be laid on the table. The subject involved in it was sufficiently embarrassed and difficult already, and he should be sorry to see any additional impediments thrown in the way. It was simply a proposition from the other House for a committee of inquiry into an all-important matter; and would it, he asked, be proper for the Senate to refuse it?

The motion to lay the message on the table was negatived.

The Senate then concurred in the proposition—yeas 29, nays 7, as follows:

YEAS.—Messrs. Barbour, Chandler, Eaton, Elliott, Gaillard, Holmes of Maine, Holmes of Mississippi, Horsey, Hunter, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Knight, Lanman, Lowrie, Morrill, Palmer, Parrott, Pleasants, Roberts, Southard, Stokes, Talbot, Taylor, Trimble, Van

Dyke, Walker of Alabama, Walker of Georgia, and Williams of Mississippi.

NAYS.—Messrs. Dana, King of New York, Mills, Otis, Ruggles, Sanford, and Smith.

Messrs. HOLMES, of Maine, BARBOUR, ROBERTS, MORRILL, SOUTHARD, JOHNSON, of Kentucky, and KING, of New York, were appointed the committee on the part of the Senate.

MONDAY, February 26.

Admission of Missouri—Report of Joint Committee.

Mr. HOLMES, of Maine, from the Joint Committee of the two Houses of Congress, appointed on the subject, reported a resolution providing for the admission of Missouri into the Union on a certain condition; which was read, and laid on the table.

TUESDAY, February 27.

Admission of Missouri—Message from the House of Representatives.

A Message from the House of Representatives informed the Senate that the House have passed a resolution providing for the admission of the State of Missouri into the Union on a certain condition, in which they request the concurrence of the Senate.*

The Senate then proceeded to consider the said resolution.

After an unsuccessful attempt by Mr. MACON to strike out the condition and proviso, which was negatived by a large majority, and a few remarks by Mr. BARBOUR in support of the expediency of harmony and concession on this momentous subject,

The question was taken on ordering the resolution to be read a third time, and was decided in the affirmative, by the following vote:

YEAS.—Messrs. Barbour, Chandler, Eaton, Elliott, Gaillard, Holmes of Maine, Holmes of Mississippi, Horsey, Hunter, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Lowrie, Morrill, Parrott, Pleasants, Roberts, Southard, Stokes, Talbot, Taylor, Thomas, Van Dyke, Walker of Alabama, Williams of Mississippi, and Williams of Tennessee—26.

NAYS.—Messrs. Dana, Dickerson, King of New York, Knight, Lanman, Macon, Mills, Noble, Otis, Palmer, Ruggles, Sanford, Smith, Tichenor, and Trimble—15.

A motion was made to read the resolution a third time forthwith, but it was objected to, and, under the rule of the Senate, of course it could not be done.

[*The next day the resolution was read the third time, and passed, with a diminution of one vote, and a gain of two—as follows:*]

The resolution from the House of Representatives for the admission of the State of Missouri into the Union, on a certain condition, was read the third time.

On the question, "Shall this resolution pass?" it was determined in the affirmative—yeas 28, nays 14, as follows:

YEAS.—Messrs. Barbour, Chandler, Eaton, Edwards, Gaillard, Holmes of Maine, Holmes of Mississippi, Horsey, Hunter, Johnson of Kentucky, Johnson of Louisiana, King of Alabama, Lowrie, Morrill, Parrott, Pinkney, Pleasants, Roberts, Southard, Stokes, Talbot, Taylor, Thomas, Van Dyke, Walker of Alabama, Walker of Georgia, Williams of Mississippi, and Williams of Tennessee.

NAYS.—Messrs. Dana, Dickerson, King of New York, Knight, Lanman, Macon, Mills, Noble, Otis, Ruggles, Sanford, Smith, Tichenor, and Trimble.

THURSDAY, March 1.

The credentials of JOHN HOLMES, appointed a Senator by the Legislature of the State of Maine for six years, commencing on the fourth instant, were read, and laid on file.

East and West Florida—Bill to take Possession of the Territory, and for its Temporary Government.

The Senate proceeded to consider, as in Committee of the Whole, the bill to authorize the President of the United States to take possession of East and West Florida, and to establish a temporary government therein; and, no amendment having been proposed, it was reported to the House, and ordered to be engrossed and read a third time.*

SATURDAY, March 3.

The credentials of BENJAMIN RUGGLES, appointed a Senator by the Legislature of the State of Ohio, for the term of six years, com-

* This was the resolution reported in the House by the grand committee raised upon the proposition of Mr. Clay, and of which he was Chairman.

* The bill, thus so expeditiously passed, and without division or amendment, was the same which had been passed seventeen years before, at the time of the acquisition of Louisiana, and was a continuation of the despotic government of Spain. The whole governing part was in the second section, and in these words:

"That, until the end of the first session of the next Congress, unless provision for the temporary government of said territories be sooner made by Congress, all the military, civil, and judicial powers exercised by the officers of the existing Government of the same territories, shall be vested in such person or persons, and shall be exercised in such manner, as the President of the United States shall direct, for the maintaining the inhabitants of said territories in the free enjoyment of their liberty, property, and religion; and the laws of the United States relating to the revenue and its collection, subject to the modification stipulated by the 15th article of the said treaty, in favor of Spanish vessels and their cargoes, and the laws relating to the importation of persons of color, shall be extended to the said territories. And the President of the United States shall be, and he hereby is, authorized within the term aforesaid, to establish such districts for the collection of the revenue, and during the recess

mencing on the fourth instant, were read, and laid on file.

The Senate adjourned to seven o'clock, P. M.

Seven o'clock, P. M.

On motion, by Mr. BARBOUR,

Resolved, unanimously, That the thanks of the Senate be presented to JOHN GAILLARD, for the impartial, able, and dignified manner in which he has discharged the duties of President of the Senate during the present session. Whereupon,

Mr. GAILLARD made his acknowledgments, and the Senate adjourned without day.

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of Congress, to appoint such officers, whose commissions shall expire at the end of the next session of Congress, to enforce the said laws, as to him shall seem expedient."

This act, now held by many to be unconstitutional and void, was reported by a committee, passed by a Congress, and approved by an Administration, which were all believed in their day to know something about the constitution, and also to care for it. The committee were: Messrs. James Barbour of Virginia, Nathaniel Macon of North Carolina, James Brown of Louisiana, William Hunter of Rhode Island, and Rufus King of New York—all of them familiar with the formation and adoption of the constitution, and one of them (Mr. Rufus King) a member of the Federal Convention which framed it. The Congress was that of 1820-'21, the first under the second administration of Mr. Monroe, himself the last of the revolutionary Presidents, and in the last term of his public life—both the Senate and the House impressive and venerable from the presence of many survivors of the first generation, and brilliant with the apparition of the young luminaries of the second generation, then just appearing above the political horizon, soon to light up the whole political firmament with the splendors of their genius, and to continue shining in it, like fixed stars, until gathered, in the fulness of time, to rest with their fathers. To name some, would be to wrong others, equally worthy, less brilliant. To name all who shone in this firmament would be to repeat, almost, the whole list of the members of the two Houses; for, either brilliant or useful, talent pervaded the whole list—even the plainest members respectable for the honesty of their votes, and close attention to the business of the House. I entered the Senate at that time, and felt myself to be among masters whose scholar I must long remain before I could become a teacher—whose example I must emulate, without the hope of successful imitation. There they were, day in and day out, at their places, punctual to every duty, ripe in wisdom, rich in knowledge, modest, virtuous, decorous, deferential, and wholly intent upon the public good. There I made my first acquaintance with the federal gentlemen of the old school, and while differing from them on systems of policy, soon came to appreciate their high personal character, to admire their finished manners, to recognize their solid patriotism, (according to their views of government,) and to feel grateful to them as the principal founders of our Government; and in all this I only divided sentiments with the old republicans, all living on terms of personal kindness with their political adversaries, and with perfect respect for each other's motives and opinions. They are all gone—their bodies buried in the earth, their works buried under rubbish, and their names beginning to fade from the memory of man—and I, (who stood so far behind them in their great day that praise from me would have seemed impertinence,) I have become, in some sort, their historiographer and introducer to the world. I abridge the debates of Congress! those debates in which their wisdom, virtue, modesty, patriotism lie buried. I resurrect the whole! put them in scene again on the living stage, every one with the best of his works in his hand: a labor of love and pride to me, of justice to them, and, I hope, of utility to many generations. Such were the two Houses of Congress which re-enacted the Florida Territorial Bill in 1821, which had been first enacted (by predecessors not less illustrious) in the Orleans Territorial Bill of 1804, and approved by Mr. Monroe's cabinet—a cabinet unsurpassed by any one before or since: John Quincy Adams, Secretary of State; William H. Crawford, Secretary of the Treasury; John C. Calhoun, Secretary at War; Smith Thompson, Secretary of the Navy; Return Jonathan Meigs, Postmaster-General; William Wirt, Attorney-General; and which acts, so made, and so approved, are now to be called unconstitutional and void. But they had a further approval to undergo—one of practice! and received it! received it from both Houses of Congress, and from the Monroe Administration: and that after it was put into operation by the first Governor of East and West Florida, commissioned with the powers of Captain-General and Intendant of Cuba, uniting in his own hands the supreme military, civil, and judicial functions, and exercising them when he believed the public good required it. But of this hereafter.

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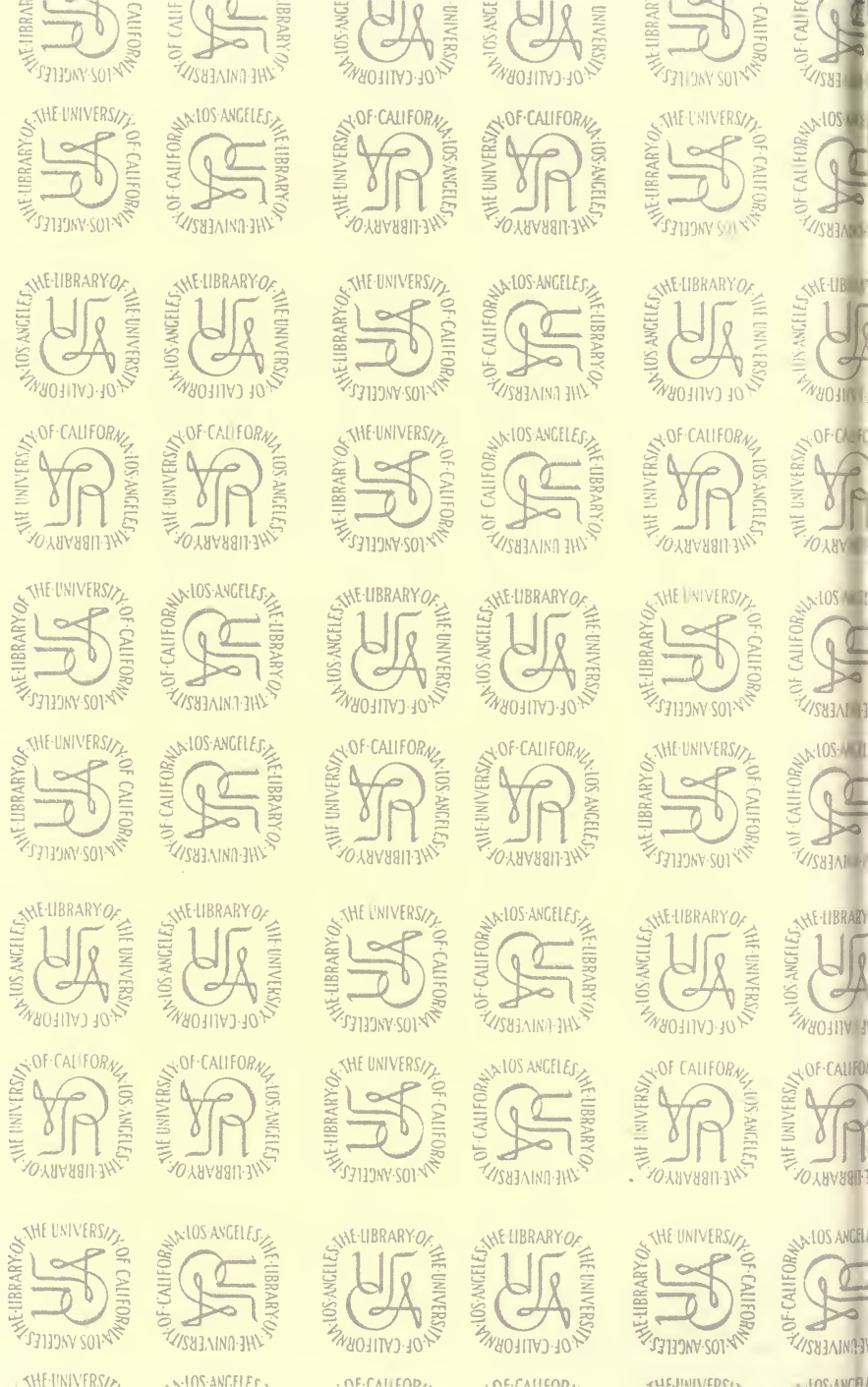
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